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STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE
1985 GENERAL ASSEMBLY

AT ITS
EXTRA SESSION 1986

BEGINNING ON
TUESDAY, THE EIGHTEENTH DAY OF FEBRUARY, A.D. 1986

AND AT ITS
REGULAR SESSION 1986

BEGINNING ON
THURSDAY, THE FIFTH DAY OF JUNE, A.D. 1986

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE THAD EURE

PUBLISHED BY AUTHORITY

STATE OF NORTH CAROLINA
SESSION LAWS AND RESOLUTIONS

ENACTED BY THE

1885 GENERAL ASSEMBLY

Lithographed by
West Publishing Company
St. Paul, Minn.

RECEIVED ON

TUESDAY, THE EIGHTEENTH DAY OF FEBRUARY, A.D. 1885

BY ITS

REGULAR SESSION 1885

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THURSDAY, THE FOURTH DAY OF MARCH, A.D. 1885

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 1985 GENERAL ASSEMBLY

ROBERT B. JORDAN III President of the Senate Montgomery
LISTON BRYAN RAMSEY Speaker of the House of
Representatives Madison

EXECUTIVE BRANCH

(Offices established by the Constitution, filled by
election, and comprising the Council of State)

JAMES G. MARTIN Governor Mecklenburg
ROBERT B. JORDAN III Lieutenant Governor Montgomery
THAD EURE Secretary of State Hertford
EDWARD RENFROW Auditor Johnston
HARLAN E. BOYLES Treasurer Wake
A. CRAIG PHILLIPS Superintendent of
Public Instruction Guilford
LACY H. THORNBURG Attorney General Jackson
JAMES A. GRAHAM Commissioner of
Agriculture Rowan
JOHN C. BROOKS Commissioner of Labor Wake
JAMES A. LONG Commissioner of
Insurance Alamance

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Martin are carried in the appendix to this volume.

1985 GENERAL ASSEMBLY

SENATE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
ROBERT B. JORDAN III	President	Mt. Gilead
J. J. HARRINGTON	President Pro Tempore	Lewiston-Woodville
KENNETH C. ROYALL, JR.	Majority Leader	Durham
SYLVIA M. FINK	Principal Clerk	Raleigh
LEROY CLARK, JR.	Reading Clerk	Wendell
GERDA B. PLEASANTS	Sergeant-at-Arms	Cary

SENATORS

<i>District</i>	<i>Name</i>	<i>County</i>	<i>Address</i>
1	MARC BASNIGHT	Dare	Manteo
2	J. J. HARRINGTON	Bertie	Lewiston-Woodville
3	JOSEPH E. THOMAS	Craven	Vanceboro
4	A. D. GUY	Onslow	Jacksonville
5	HAROLD W. HARDISON	Lenior	Deep Run
6	R. L. MARTIN	Pitt	Bethel
7	FRANKLIN E. WILLIAMS, SR. (R)	New Hanover	Wilmington
8	HENSON P. BARNES	Wayne	Goldsboro
9	THOMAS F. TAFT	Pitt	Greenville
10	JAMES EZZELL	Nash	Rocky Mount
11	JAMES D. SPEED	Franklin	Louisburg
12	ANTHONY E. RAND	Cumberland	Fayetteville
12	LURA TALLY	Cumberland	Fayetteville
13	KENNETH C. ROYALL, JR.	Durham	Durham
13	RALPH A. HUNT	Durham	Durham
14	JOSEPH E. JOHNSON	Wake	Raleigh
14	WILMA C. WOODARD	Wake	Garner
14	WILLIAM W. STATON	Lee	Sanford
15	ROBERT D. WARREN	Johnston	Benson
16	WANDA H. HUNT	Moore	Pinehurst
16	RUSSELL G. WALKER	Randolph	Asheboro
17	J. RICHARD CONDER	Richmond	Rockingham
17	AARON W. PLYLER	Union	Monroe
18	R. C. SOLES, JR.	Columbus	Tabor City
19	ROBERT G. SHAW (R)	Guilford	Greensboro
20	TED KAPLAN	Forsyth	Winston-Salem
20	MARVIN WARD	Forsyth	Winston-Salem
21	TIMOTHY McDOWELL*	Alamance	Saxapahaw
22	JAMES C. JOHNSON, JR. (R)	Cabarrus	Concord
23	PAUL S. SMITH (R)	Rowan	Salisbury
23	ROBERT V. SOMERS (R)	Rowan	Salisbury
24	WILLIAM D. GOLDSTON, JR.	Rockingham	Eden
24	WELDON R. PRICE	Rockingham	Reidsville
25	OLLIE HARRIS	Cleveland	Kings Mountain
25	HELEN RHYNE MARVIN	Gaston	Gastonia
25	MARSHALL A. RAUCH	Gaston	Gastonia
26	T. CASS BALLENGER (R)	Catawba	Hickory
26	WILLIAM W. REDMAN, JR. (R)	Iredell	Statesville
27	DONALD R. KINCAID (R)	Caldwell	Lenior
27	DANIEL REID SIMPSON (R)	Burke	Morganton
28	ROBERT S. SWAIN	Buncombe	Asheville
28	DENNIS WINNER	Buncombe	Asheville
29	CHARLES W. HIPPS	Haywood	Waynesville
29	R. P. THOMAS	Henderson	Hendersonville
30	DAVID RUSSELL PARNELL	Robeson	Parkton
31	WILLIAM N. MARTIN	Guilford	Greensboro
32	WENDELL H. SAWYER	Guilford	Greensboro
33	MELVIN L. WATT	Mecklenburg	Charlotte
34	JAMES D. McDUFFIE (R)	Mecklenburg	Charlotte
35	LAURENCE A. COBB (R)	Mecklenburg	Charlotte

* Timothy McDowell was appointed by Governor Martin 9/20/85, to replace John M. Jordan who resigned effective 8/15/85.

HOUSE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
LISTON BRYAN RAMSEY	Speaker	Marshall
JOHN J. HUNT	Speaker Pro Tempore	Lattimore
GRACE A. COLLINS	Principal Clerk	Fuquay-Varina
SAM J. BURROW, JR.	Reading Clerk	Cary
LARRY P. EAGLES	Sergeant-at-Arms	Tarboro

REPRESENTATIVES

<i>District</i>	<i>Name</i>	<i>County</i>	<i>Address</i>
1	CHARLES D. EVANS	Dare	Nags Head
1	VERNON G. JAMES	Pasquotank	Elizabeth City
2	HOWARD B. CHAPIN	Beaufort	Washington
3	GERALD L. ANDERSON	Craven	Bridgeton
3	CHRIS S. BARKER	Craven	New Bern
3	DANIEL T. LILLEY	Lenoir	Kinston
4	W. BRUCE ETHRIDGE	Onslow	Swansboro
4	J. PAUL TYNDALL	Onslow	Jacksonville
4	GERALD B. HURST (R)	Onslow	Jacksonville
5	C. MELVIN CREECY	Northampton	Rich Square
6	L. M. BRINKLEY	Hertford	Ahoskie
7	FRANK W. BALLANCE, JR.	Warren	Warrenton
8	JOSEPHUS L. MAVRETIC	Edgecombe	Tarboro
9	WALTER B. JONES, JR.	Pitt	Farmville
9	EDWARD N. WARREN	Pitt	Greenville
10	WENDELL H. MURPHY	Duplin	Rose Hill
11	H. MARTIN LANCASTER	Wayne	Goldsboro
11	CHARLES D. WOODARD	Wayne	Goldsboro
12	EDD NYE	Bladen	Elizabethtown
12	MURRAY P. POOL	Sampson	Clinton
13	A. M. HALL	New Hanover	Wilmington
13	HARRY E. PAYNE	New Hanover	Wilmington
14	E. DAVID REDWINE	Brunswick	Shallotte
15	RICHARD WRIGHT	Columbus	Tabor City
16	DANIEL H. DEVANE	Hoke	Raeford
16	JOHN CALVIN HASTY	Robeson	Maxton
16	SIDNEY A. LOCKS	Robeson	Lumberton
17	C. R. EDWARDS	Cumberland	Fayetteville
17	LUTHER R. JERALDS	Cumberland	Fayetteville
18	R. D. BEARD	Cumberland	Fayetteville
18	WILLIAM E. CLARK	Cumberland	Fayetteville
18	HENRY M. TYSON	Cumberland	Fayetteville
19	BOB R. ETHERIDGE	Harnett	Lillington
19	DENNIS A. WICKER	Lee	Sanford
20	GEORGE W. BRANNAN	Johnston	Smithfield
20	BARNEY PAUL WOODARD	Johnston	Princeton
21	DANIEL T. BLUE, JR.	Wake	Raleigh
22	JOHN T. CHURCH	Vance	Henderson
22	JAMES W. CRAWFORD, JR.	Granville	Oxford
22	WILLIAM T. WATKINS	Granville	Oxford
23	H. M. MICHAUX, JR.	Durham	Durham
24	ANNE BARNES	Orange	Chapel Hill
24	JOE HACKNEY	Orange	Chapel Hill
25	J. FRED BOWMAN	Alamance	Burlington
25	BERTHA M. HOLT	Alamance	Burlington
25	H. SAMUEL HUNT III*	Alamance	Burlington
25	ROBERT L. MCALISTER	Rockingham	Ruffin
26	HERMAN C. GIST	Guilford	Greensboro
27	ALBERT S. LINEBERRY, SR.	Guilford	Greensboro
27	MARGARET KEESEE-FORRESTER (R)	Guilford	Greensboro
27	FRANK J. SIZEMORE III (R)	Guilford	Greensboro
28	RICHARD E. CHALK (R)	Guilford	High Point
28	STEPHEN WOOD (R)	Guilford	High Point
29	MICHAEL P. DECKER (R)	Forsyth	Walkertown
30	WILLIAM T. BOYD (R)	Randolph	Asheboro
31	JAMES M. CRAVEN (R)	Moore	Pinebluff
32	DONALD M. DAWKINS	Richmond	Rockingham
33	FOYLE HIGHTOWER, JR.	Anson	Wadesboro
34	JOE R. HUDSON	Union	Waxhaw

34	DWIGHT W. QUINN	Cabarrus	Kannapolis
34	COY C. PRIVETTE (R)	Cabarrus	Kannapolis
34	TIMOTHY N. TALLENT (R)	Cabarrus	Concord
35	CHARLOTTE A. GARDNER (R)	Rowan	Salisbury
35	BRADFORD V. LIGON (R)	Rowan	Salisbury
36	RAYMOND WARREN (R)	Mecklenburg	Charlotte
37	BETSY L. COCHRANE (R)	Davie	Advance
37	CHARLES L. CROMER (R)	Davidson	Thomasville
37	JOE H. HEGE, JR. (R)	Davidson	Lexington
38	HAROLD J. BRUBAKER (R)	Randolph	Asheboro
39	ANN Q. DUNCAN (R)	Forsyth	Pfafftown
39	THERESA H. ESPOSITO (R)	Forsyth	Winston-Salem
39	FRANK E. RHODES (R)	Forsyth	Winston-Salem
40	DAVID H. DIAMONT	Surry	Pilot Mountain
40	WILLIAM EUGENE WILSON (R)**	Watauga	Boone
40	J. MARSHALL HALL (R)	Stokes	King
41	JOHN W. BROWN (R)	Wilkes	Elkin
41	GEORGE M. HOLMES (R)	Yadkin	Yadkinville
42	LOIS S. WALKER (R)	Iredell	Statesville
43	ROBERT BRAWLEY (R)	Iredell	Mooresville
44	DAVID W. BUMGARDNER	Gaston	Belmont
44	DAVID J. NOLES (R)	Lincoln	Lincolnton
44	JOHNATHAN L. RHYNE, JR. (R)	Lincoln	Lincolnton
44	WALTER H. WINDLEY III (R)	Gaston	Gastonia
45	AUSTIN M. ALLRAN (R)	Catawba	Hickory
45	DORIS R. HUFFMAN (R)	Catawba	Newton
46	CHARLES F. BUCHANAN (R)	Mitchell	Green Mountain
46	JAMES F. HUGHES (R)	Avery	Linville
46	GEORGE S. ROBINSON (R)	Caldwell	Lenoir
47	RAY C. FLETCHER	Burke	Valdese
48	JOHN J. HUNT	Cleveland	Lattimore
48	EDITH L. LUTZ	Cleveland	Lawndale
48	CHARLES D. OWENS	Rutherford	Forest City
49	ROBERT C. HUNTER	McDowell	Marion
50	LARRY T. JUSTUS (R)	Henderson	Hendersonville
51	MARIE W. COLTON	Buncombe	Asheville
51	NARVEL J. CRAWFORD	Buncombe	Asheville
51	GORDON H. GREENWOOD	Buncombe	Black Mountain
51	MARTIN L. NESBITT	Buncombe	Asheville
52	CHARLES M. BEALL	Haywood	Clyde
52	LISTON B. RAMSEY	Madison	Marshall
53	JEFF H. ENLOE, JR.	Macon	Franklin
54	JOHN B. McLAUGHLIN	Mecklenburg	Newell
55	C. IVAN MOTHERSHEAD (R)	Mecklenburg	Charlotte
56	JO GRAHAM FOSTER	Mecklenburg	Charlotte
57	L. P. SPOON (R)	Mecklenburg	Charlotte
58	RUTH M. EASTERLING	Mecklenburg	Charlotte
59	JAMES F. RICHARDSON	Mecklenburg	Charlotte
60	HOWARD C. BARNHILL	Mecklenburg	Charlotte
61	CASPER HOLROYD	Wake	Raleigh
62	J. RAYMOND SPARROW	Wake	Cary
63	MARGARET STAMEY	Wake	Raleigh
64	BESTY H. WISER	Wake	Raleigh
65	AARON E. FUSSELL	Wake	Raleigh
66	ANNIE BROWN KENNEDY	Forsyth	Winston-Salem
67	C. B. HAUSER	Forsyth	Winston-Salem
68	W. PAUL PULLEY	Durham	Durham
69	GEORGE W. MILLER, JR.	Durham	Durham
70	MILTON F. FINCH, JR.	Wilson	Wilson
71	LARRY E. ETHERIDGE (R)	Wilson	Wilson
72	ALLEN C. BARBEE	Nash	Spring Hope

* H. Samuel Hunt III was appointed by Governor Martin 11/7/85, to replace Timothy McDowell who resigned effective 9/25/85.

** William Eugene Wilson was appointed by Governor Martin 1/3/86, to replace James M. Cole who vacated his position when he changed residence effective 11/4/85.

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE J. J. HARRINGTON,
Cochairman

HOUSE SPEAKER LISTON BRYAN RAMSEY, *Cochairman*

SEN. OLLIE HARRIS

SEN. DAVID R. PARNELL

SEN. AARON W. PLYLER

SEN. KENNETH C. ROYALL, JR.

SEN. WILLIAM W. STATON

SEN. ROBERT S. SWAIN

REP. ALLEN C. BARBEE

REP. DANIEL T. BLUE, JR.

REP. CHARLES D. EVANS

REP. FOYLE HIGHTOWER, JR.

REP. JOHN J. HUNT

REP. WILLIAM T. WATKINS

LEGISLATIVE SERVICES STAFF DIRECTORS

GEORGE R. HALL, Jr.	Legislative Administrative Officer
GERRY F. COHEN	Director of Legislative Drafting
THOMAS L. COVINGTON	Director of Fiscal Research
M. GLENN NEWKIRK	Director of Legislative Automated Systems
TERRENCE D. SULLIVAN	Director of Research
J. MICHAEL MINSHEW	Building Superintendent and Chief of Security

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

Section 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

Sec. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

Sec. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

Sec. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

Sec. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

Sec. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

Sec. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

Sec. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

Sec. 10. *Free elections.* All elections shall be free.

Sec. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

Sec. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

Sec. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

Sec. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

Sec. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Sec. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

Sec. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

Sec. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

Sec. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

Sec. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to

remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

Sec. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

Sec. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Sec. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

Sec. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

Sec. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

Sec. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

Sec. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

Sec. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Sec. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

Sec. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

Sec. 35. *Recurrence to fundamental principals.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

Section 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

Sec. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district;

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Sec. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

Sec. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

Sec. 9. *Term of office.* The term of office of Senators and Representatives shall commence on the first day of January next after their election.

Sec. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

Sec. 11. *Sessions.*

(1) *Regular Sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

Sec. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Sec. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

Sec. 14. *Other officers of the Senate.*

(1) *President Pro Tempore - succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore - temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other officers.* The Senate shall elect its other officers.

Sec. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

Sec. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

Sec. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

Sec. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

Sec. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:"

Sec. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

Sec. 23. *Revenue bills.* No laws shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

- (a) Relating to health, sanitation, and the abatement of nuisances;
- (b) Changing the names of cities, towns, and townships;
- (c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
- (d) Relating to ferries or bridges;
- (e) Relating to non-navigable streams;
- (f) Relating to cemeteries;
- (g) Relating to the pay of jurors;

- (h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
 - (i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
 - (j) Regulating labor, trade, mining, or manufacturing;
 - (k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
 - (l) Giving effect to informal wills and deeds;
 - (m) Granting a divorce or securing alimony in any individual case;
 - (n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.
- (2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.
- (3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.
- (4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

Section 1. *Executive power.* The executive power of the State shall be vested in the Governor.

Sec. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office.

Sec. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the

term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

Sec. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

Sec. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures.

This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

Sec. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

Sec. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

(7) *Special Qualifications for Attorney General.* Only persons duly authorized to practice law in the courts of this State shall be eligible for appointment or election as Attorney General.

Sec. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

Sec. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

Sec. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants or commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina," and signed by the Governor.

Sec. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as

practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

Section 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a coordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

Sec. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

Sec. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

Sec. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

Sec. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

Sec. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court or courts of the division from which he was retired. The General Assembly shall also prescribe maximum age limits service as a Justice or Judge.

Sec. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

Sec. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a

number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

Sec. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts: Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

Sec. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

Sec. 14. *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Sec. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

Sec. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

Sec. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

Sec. 18. *District Attorney and Prosecutorial Districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a District Attorney. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney

General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

Sec. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

Sec. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

Sec. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

Sec. 22. *Qualification of Justices and Judges.* Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Judge of District Court. This section shall not apply to persons elected to or serving in such capacities on or before January 1, 1981.

ARTICLE V

FINANCE

Section 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

Sec. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding \$300, any personal property. The General Assembly may exempt from taxation not exceeding \$1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

Sec. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections, or to repel invasions;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Sec. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

Sec. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

Sec. 8. *Health care facilities.* Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or

any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

Sec. 9. *Capital projects for industry.* Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 10. *Joint ownership of generation and transmission facilities.* In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts,

omissions or obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

Sec. 11. *Capital projects for agriculture.* Notwithstanding any other provision of the Constitution the General Assembly may enact general laws to authorize the creation of an agency to issue revenue bonds to finance the cost of capital projects consisting of agricultural facilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

Sec. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

Sec. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

Sec. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

Sec. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

Sec. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

Sec. 7. *Oath.* Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I,, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as
....., so help me God."

Sec. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who had been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

Sec. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an

extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

Sec. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

Section 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

Section 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain

under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

Sec. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

Section 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article,

and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Sec. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

Section 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than \$500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

Sec. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than \$1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of surviving spouse.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

Sec. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

Sec. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. *Insurance.* A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or

creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

Sec. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

Sec. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

Section 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

Section 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act of submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes

cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

Sec. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

Sec. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

Sec. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

Section 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

Sec. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

Sec. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the

State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

Sec. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

Sec. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

EXTRA SESSION 1986

H.B. 3

CHAPTER 1

AN ACT TO SUBMIT TO THE VOTERS OF NORTH CAROLINA WHETHER THERE SHOULD BE LOCATED WITHIN THE STATE OF NORTH CAROLINA A HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY SITE.

Whereas, the United States Department of Energy has recently designated two areas in North Carolina as potential high-level radioactive waste repository sites; and

Whereas, it is necessary to ascertain the will of the people of North Carolina whether they want the federal government to locate a high-level radioactive waste repository site in North Carolina; and

Whereas, it is expedient that action be taken in a timely manner so as to be available for consideration by the Department of Energy as part of North Carolina's response to the Draft Report prior to the issuance of its Final Area Recommendation Report in July, 1986; and

Whereas, a referendum will provide a way to educate the citizenry as to the magnitude of this repository; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There shall be submitted to the qualified voters of the State of North Carolina at a statewide election to be held May 6, 1986, a referendum to determine the will of the people of North Carolina whether the United States Department of Energy should locate a high-level radioactive waste repository site in North Carolina. The referendum shall be held in accordance with the provisions of Chapter 163 of the General Statutes, and the form of the ballot shall be:

- ☐ FOR the location within the State of North Carolina of a high-level radioactive waste and spent nuclear fuel disposal site.
- ☐ AGAINST the location within the State of North Carolina of a high-level radioactive waste and spent nuclear fuel disposal site."

Sec. 2. The result of the referendum shall be canvassed and certified by the State Board of Elections to the Secretary of State of North Carolina in the manner and at the time provided by Chapter 163 of the General Statutes. The Secretary of State shall certify the result of the referendum to the President of the United States, to each member of the United States Congress, and to the Secretary of the United States Department of Energy.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

S.B. 4

CHAPTER 2

AN ACT TO ALLOW PUBLICATION OF NOTICES PRIOR TO FIRST PUBLICATION OF THE NORTH CAROLINA REGISTER IN A MANNER SIMILAR TO THAT ALLOWED UNDER CHAPTER 150A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Prior to the first publication of the North Carolina Register the notice of publication requirements of G.S. 150B-12(c) are met if an agency publishes in one or more newspapers of general circulation notice which includes:

(1) A reference to the statutory authority under which the action is proposed.

(2) The time and place of the public hearing and a statement of the manner in which data, views, and arguments may be submitted to the agency either at the hearing or at other times by any person.

(3) A statement of the terms or substance of the proposed rule or a description of the subjects and issues involved, and the proposed effective date of the rule.

Sec. 2. Section 14 of Chapter 746 of the Session Laws of 1985 is repealed, except that such repeal shall not affect the validity of any notices published before March 1, 1986, under that section.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

H.B. 4

CHAPTER 3

AN ACT TO PROVIDE THAT TEMPORARY RULES REGARDING AN ELECTION EXPIRE AFTER CONVENING OF A REGULAR SESSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-22.2 is amended by deleting "next session", and substituting "next regular session".

Sec. 2. Notwithstanding G.S. 163-22.2 as it existed immediately prior to the effective date of Section 1 of this act, any rules lawfully adopted under G.S. 163-22.2 and in effect on the convening of the 1986 Extra Session shall not expire 60 days after the convening of the 1986 Extra Session of the General Assembly, but 60 days after convening of the 1987 Regular Session of the General Assembly, unless earlier amended or repealed by the General Assembly or under Chapter 150B of the General Statutes.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

H.B. 5

CHAPTER 4

AN ACT TO ALLOW COMPLIANCE WITH THE VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT.

Whereas, the Voting Accessibility for the Elderly and Handicapped Act became effective January 1, 1986, and requires changes in election procedures, such as elimination of notarization of absentee ballots for handicapped voters in federal elections and accessibility of polling places; and

Whereas, that act does not apply to State elections, which will cause confusion; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Any procedures established under Section 3(b)(2)(B) of P.L. 98-435 shall apply to all elections.

Sec. 2. Any rules to comply with Section 5(b) of P.L. 98-435 shall apply to all elections.

Sec. 3. Rules to implement this act shall become effective on the date prescribed by the State Board of Elections, and shall not be subject to Chapter 150B of the General Statutes except for Article 5.

Sec. 4. This act is effective upon ratification, but expires as to elections held after October 1, 1986.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

H.B. 6

CHAPTER 5

AN ACT TO MAKE A CLARIFYING CHANGE TO THE CRIMINAL COURT COST STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a)(3) is rewritten to read:

“(3) For the retirement and insurance benefits of both State and local governmental law enforcement officers, the sum of four dollars and twenty-five cents (\$4.25) to be remitted to the State Treasurer. Fifty cents (\$.50) of this sum shall be administered as provided in Article 12C of Chapter 143 of the General Statutes. Two dollars and seventy-five cents (\$2.75) of this sum shall be administered as provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall be administered as provided in Article 12F of Chapter 143 of the General Statutes.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

S.B. 1

CHAPTER 6

AN ACT TO PERMIT THE INSURANCE REGULATION STUDY COMMISSION, THE LIABILITY AND PROPERTY INSURANCE MARKETS STUDY COMMISSION, AND THE MEDICAL MALPRACTICE AND MEDICAL LIABILITY STUDY COMMISSION TO SUBMIT REPORTS TO THE 1985 GENERAL ASSEMBLY, REGULAR SESSION 1986.

The General Assembly of North Carolina enacts:

Section 1. Sections 7.5, 8.4, and 19.3 of Chapter 792 of the 1985 Session Laws are each amended by adding a new sentence at the beginning to read:

“The Commission may submit a written report with recommendations, including recommended legislation, to the 1985 General Assembly, Regular Session 1986.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

S.B. 2

CHAPTER 7

AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE OR INSURANCE COMPANIES TO CREATE RISK SHARING PLANS FOR INADEQUATE OR UNAVAILABLE KINDS OF PROPERTY AND CASUALTY INSURANCE; TO EXPAND THE FAIR PLAN; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO DESIGNATE ADDITIONAL COVERAGES UNDER THE FAIR AND BEACH PLANS; AND TO AUTHORIZE INSURERS TO FORM MARKET ASSISTANCE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 37.

“Mandatory or Voluntary Risk Sharing Plans.

“§ 58-450. *Establishment of plans.*—If the Commissioner finds, after a hearing held in accordance with G.S. 58-9.2, that in all or any part of this State, any amount or kind of insurance authorized by G.S. 58-72(4) through G.S. 58-72(22) is not readily available in the voluntary market and that the public interest requires the availability of that insurance, he may either:

(1) promulgate plans to provide insurance coverage for any risks in this State that are, based on reasonable underwriting standards, entitled to obtain but are otherwise unable to obtain coverage; or

(2) call upon insurers to prepare plans for his approval.

“§ 58-451. *Purposes, contents and operation of risk sharing plans.*—(a) Each plan promulgated or prepared pursuant to G.S. 58-450 shall:

(1) give consideration to:

- a. the need for adequate and readily accessible coverage;
 - b. optional methods of improving the market affected;
 - c. the inherent limitations of the insurance mechanism;
 - d. the need for reasonable underwriting standards; and
 - e. the requirement of reasonable loss prevention measures;
- (2) establish procedures that will create minimum interference with the voluntary market;
 - (3) distribute the obligations imposed by the plan, and any profits or losses experienced by the plan, equitably and efficiently among the participating insurers; and
 - (4) establish procedures for applicants and participants to have their grievances reviewed by an impartial body. The filing and processing of a grievance pursuant to this subdivision does not stay the requirement for participation in a plan mandated by G.S. 58-452.
- (b) Each plan may, on behalf of its participants:
- (1) issue policies of insurance to eligible applicants;
 - (2) underwrite, adjust, and pay losses on insurance issued by the plan;
 - (3) appoint a service company or companies to perform the functions enumerated in this subsection; and
 - (4) obtain reinsurance for any part or all of its risks.

"§ 58-452. *Persons required to participate.*—(a) Each plan shall require participation:

- (1) by all insurers licensed in this State to write the kinds of insurance covered by the specific plan;
- (2) by all agents licensed to represent those insurers for that kind of insurance; and
- (3) by every rating organization that makes rates for that kind of insurance.

(b) The Commissioner shall exclude from each plan any person if participation would impair the solvency of that person.

"§ 58-453. *Voluntary participation.*—Each plan may provide for participation by:

- (1) insurers that are not required to participate by G.S. 58-452;
- (2) eligible surplus lines insurers as defined in G.S. 58-422(3); or
- (3) reinsurers approved by the Commissioner.

"§ 58-454. *Classification and rates.*—Each plan shall provide for:

- (1) the method of classifying risks;
- (2) the making and filing of rates which are not excessive, inadequate, or unfairly discriminatory and policy forms applicable to the various risks insured by the plan;
- (3) the adjusting and processing of claims;
- (4) the commission rates to be paid to agents or brokers for coverages written by the plan; and
- (5) any other insurance or investment functions that are necessary for the purpose of providing adequate and readily accessible coverage.

"§ 58-455. *Basis for participation.*—Each plan shall specify the basis for participation by insurers, agents, rating organizations, and other

participants and shall specify the conditions under which risks shall be accepted and underwritten by the plan.

“§ 58-456. *Duty to provide information.*—Every participating insurer and agent shall provide to any person seeking the insurance available in each plan, information about the services prescribed in the plan, including full information on the requirements and procedures for obtaining insurance under the plan, whenever the insurance is not readily available in the voluntary market.

“§ 58-457. *Provision of marketing facilities.*—If the Commissioner finds that the lack of participating insurers or agents in a geographic area makes the functioning of a plan difficult, he may order that the plan appoint agents on such terms as he designates or that the plan take other appropriate steps to guarantee that service is available.

“§ 58-458. *Voluntary risk sharing plans.*—Insurers doing business within this State or reinsurers approved by the Commissioner may prepare voluntary plans that will provide any specific amount or kind of insurance or component thereof for all or any part of this State in which that insurance is not readily available in the voluntary market and in which the public interest requires the availability of the coverage. These plans shall be submitted to the Commissioner and, if approved by him, may be put into operation.

“§ 58-459. *Article not subject to Administrative Procedure Act.*—The provisions of Chapter 150B of the General Statutes shall not apply to this Article, except that G.S. 150B-39 and G.S. 150B-41 shall apply to hearings conducted pursuant to G.S. 58-450.

“§ 58-460. *Immunity of Commissioner and plan participants.*—There shall be no liability on the part of, and no cause of action shall arise against the Commissioner, his representatives, or any plan, its participants, or its employees for any good faith action taken by them in the performance of their powers and duties in creating any plan pursuant to this Article.”

Sec. 2. The second sentence of G.S. 58-72 is rewritten to read: “Except to the extent an insurer participates in a risk sharing plan under Article 37 of this Chapter, nothing herein contained shall require any insurer to insure every kind of risk which it is authorized to insure.”

Sec. 3. The second sentence of G.S. 58-72(22) is rewritten to read: “Except to the extent an insurer participates in a risk sharing plan under Article 37 of this Chapter, no corporation so formed may transact any other business than that specified in its charter and articles of association.”

Sec. 4. G.S. 58-173.17 is rewritten to read:

“§ 58-173.17. *Purpose and geographic coverage of Article.*—(a) It is the purpose of this Article to provide a program whereby adequate basic property insurance may be made available to property owners having insurable property in the State. It is further the purpose of this Article to encourage the improvement of properties located in the State and to arrest the decline of properties located in the State.

(b) This Article shall apply to all geographic areas of the State except the ‘Beach Area’ defined in G.S. 58-173.2(2).”

Sec. 5. The first sentence of G.S. 58-173.20 is amended by adding immediately after the words "basic property insurance" the words "including property insurance for farm risks".

Sec. 6. The second sentence of G.S. 58-173.20 is amended by deleting the words "the geographical areas of coverage,".

Sec. 7. G.S. 58-173.21 is amended by adding a new subsection to read:

"(c) The Commissioner may designate the kinds of property insurance policies on principal residences to be offered by the association, including insurance policies under Article 12B of this Chapter, and the commission rates to be paid to agents or brokers for these policies, if he finds, after a hearing held in accordance with G.S. 58-9.2, that the public interest requires the designation. The provisions of Chapter 150B do not apply to any procedure under this subsection, except that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection. Within 30 days after the receipt of notification from the Commissioner of a change in designation pursuant to this subsection, the association shall submit a revised plan and articles of association for approval in accordance with subsection (b) of this section."

Sec. 8. G.S. 58-173.7 is amended by adding a new paragraph at the end to read:

"The Commissioner may designate the kinds of property insurance policies on principal residences to be offered by the association, including insurance policies under Article 12B of this Chapter, and the commission rates to be paid to agents or brokers for these policies, if he finds, after a hearing held in accordance with G.S. 58-9.2, that the public interest requires the designation. The provisions of Chapter 150B do not apply to any procedure under this subsection, except that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection. Within 30 days after the receipt of notification from the Commissioner of a change in designation pursuant to this subsection, the association shall submit a revised plan and articles of association for approval in accordance with this section."

Sec. 9. G.S. 58-131.46 is amended by adding immediately after the words "other information and data" the words "the creation, administration, or termination of a market assistance program".

Sec. 10. The first sentence of G.S. 58-131.48 is amended by adding immediately after the words "management or is a member of" the words "a market assistance program or of".

Sec. 11. The second sentence of G.S. 58-131.48 is amended by deleting the words "This section shall not apply to" and substituting "This section does not apply to mandatory or voluntary risk sharing plans established under Article 37 of this Chapter or".

Sec. 12. The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the act which can be given effect without the invalid provision.

Sec. 13. This act is effective upon ratification and shall expire on June 30, 1988. Within 30 days after the effective date of this act the boards of directors of the FAIR Plan and the Beach Plan shall each submit a

revised plan of operation for approval by the Commissioner in accordance with G.S. 58-173.21(b) and G.S. 58-173.7, respectively.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

RESOLUTIONS

H.R. 8

RESOLUTION 1

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 1986 EXTRA SESSION OF THE GENERAL ASSEMBLY TO RECONVENE IN 1986, AND LIMITING THE SUBJECT THAT MAY BE CONSIDERED IN THAT SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. At 5:30 p.m., on Tuesday, February 18, 1986, the Senate and House of Representatives shall adjourn the 1986 Extra Session to reconvene at 11:30 a.m. on June 5, 1986. During that session, the only item that may be considered is a joint resolution adjourning the 1986 Extra Session sine die.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1986.

REGULAR SESSION 1986

H.B. 953

CHAPTER 794

AN ACT CREATING THE NORTH CAROLINA EDUCATIONAL FACILITIES FINANCE AGENCY AND AUTHORIZING SAID AGENCY TO FINANCE, REFINANCE, CONSTRUCT, PROVIDE AND ACQUIRE AND OTHERWISE UNDERTAKE HIGHER EDUCATIONAL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Short Title. This Chapter shall be known, and may be cited, as the "Higher Educational Facilities Finance Act."

Sec. 2. Legislative Findings. It is hereby declared that for the benefit of the people of the State of North Carolina, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that they be given the fullest opportunity to learn and to develop their intellectual capacities; that it is essential for institutions of higher education within the State to be able to construct and renovate facilities to assist its citizens in achieving the fullest development of their intellectual capacities; and that it is the purpose of this Chapter to provide a measure of assistance and an alternative method to enable private institutions of higher education in the State to provide the facilities and the structures which are needed to accomplish the purposes of this Chapter, all to the public benefit and good, to the extent and in the manner provided herein.

Sec. 3. Definitions. As used or referred to in this Chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Agency" means the North Carolina Educational Facilities Finance Agency created by this Chapter, or, should said agency be abolished or otherwise divested of its functions under this Chapter, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this Chapter to the agency.

(2) "Cost", as applied to any project or any portion thereof financed under the provisions of this Chapter, means all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project, including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the agency, for a period not exceeding two years after the estimated date of completion of construction, the cost of engineering and

architectural surveys, plans and specifications, the cost of consulting and legal services and other expenses necessary or incident to determining the feasibility or practicability of constructing or equipping a project, the cost of administrative and other expenses necessary or incident to the construction or acquisition of a project and the financing of the construction or acquisition thereof, including reasonable provision for working capital and a reserve for debt service, and the cost of reimbursing any participating institution for higher education for any payments made for any cost described above or the refinancing of any cost described above, including any evidence of indebtedness incurred to finance such cost; provided, however, that no payment shall be reimbursed or any cost or indebtedness be refinanced if such payment was made or such cost or indebtedness was incurred earlier than five years prior to the effective date of this Chapter.

(3) "Project" means any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(4) "Bonds" or "notes" means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Chapter, including revenue refunding bonds, notwithstanding that the same may be secured by a deed of trust or the full faith and credit of a participating institution for higher education or any other lawfully pledged security of a participating institution for higher education.

(5) "Institution for higher education" means a nonprofit private educational institution within the State of North Carolina authorized by law to provide a program of education beyond the high school level.

(6) "Participating institution for higher education" means an institution for higher education which, pursuant to the provisions of this Chapter, undertakes the financing, refinancing, acquiring, constructing, equipping, providing, owning, repairing, maintaining, extending,

improving, rehabilitating, renovating or furnishing of a project or undertakes the refunding or refinancing of obligations or of a deed of trust or a mortgage or of advances as provided in this Chapter.

(7) "State" means the State of North Carolina.

Sec. 4. Educational Facilities Finance Agency. (a) There is hereby created a body politic and corporate to be known as "North Carolina Educational Facilities Finance Agency" which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The agency shall be governed by a board of directors composed of seven members. Two of the members of said board shall be the State Treasurer and the State Auditor, both of whom shall serve ex officio. The remaining directors of the agency shall be residents of the State and shall not hold other public office. The President of the Senate shall appoint one director, the Speaker of the House shall appoint one director, and the Governor shall appoint three of the directors of the agency. The five appointive directors of the agency shall be appointed for staggered four-year terms, two being appointed initially for one year by the President of the Senate and the Speaker of the House, respectively, and one for two years, one for three years and one for four years, respectively, as designated by the Governor, and each director shall continue in office until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any vacancy in a position held by an appointive member shall be filled by a new appointment made by the officer who originally made such appointment. Any member of the board of directors shall be eligible for reappointment. Each appointive member of the board of directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the same are in writing expressly waived. Each appointive member of the board of directors before entering upon his duties shall take an oath of office to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the Secretary of State. The Governor shall designate from among the members of the board of directors a chairman and a vice-chairman. The terms of the chairman and vice-chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the board of directors of the agency. The board of directors shall elect and appoint and prescribe the duties of a secretary-treasurer and such other officers as it shall deem necessary or advisable, which officers need not be members of the board of directors.

(b) No part of the revenues or assets of the agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the agency shall receive no compensation for their services but shall be entitled to receive, for attendance at meetings of the agency or any committee thereof and for other services for the agency, reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(c) The secretary-treasurer of the agency shall keep a record of the proceedings of the agency and shall be custodian of all books, documents and papers filed with the agency, the minute book or journal of the agency and its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the agency and to give certificates under the official seal of the agency to the effect that such copies are true copies, and all persons dealing with the agency may rely upon such certificates.

(d) Four members of the board of directors of the agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the board of directors duly called and held shall be necessary for any action taken by the board of directors of the agency; provided, however, that the board of directors may appoint an executive committee to act on behalf of said board during the period between regular meetings of said board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the agency shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the agency.

(e) The North Carolina Educational Facilities Finance Agency shall be contained within the Department of State Treasurer as if it had been transferred to that department by a Type II transfer as defined in G.S. 143A-6(b).

Sec. 5. General Powers. The agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

(1) To make and execute contracts and agreements necessary or incidental to the exercise of its powers and duties under this Chapter, including loan agreements and agreements of sale or leases with, mortgages and deeds of trust and conveyances to participating institutions of higher education, persons, firms, corporations, governmental agencies and others and including credit enhancement agreements;

(2) To acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any project, upon such terms and at such cost as shall be agreed upon by the owner and the agency;

(3) To arrange or contract with any county, city, town or other political subdivision or instrumentality of the State for the opening or closing of streets or for the furnishing of utility or other services to any project;

(4) To sell, convey, lease as lessor, mortgage, exchange, transfer, grant a deed of trust in, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(5) To pledge or assign any money, purchase price payments, rents, loan repayments, charges, fees or other revenues, including any federally guaranteed securities and moneys received therefrom whether such securities are initially acquired by the agency or a participating institution

for higher education, and any proceeds derived by the agency from sales of property, insurance, condemnation awards or other sources;

(6) To pledge or assign the revenues and receipts from any project and any loan agreement, agreement of sale or lease of the loan repayments, purchase price payments, rent and income received thereunder;

(7) To borrow money as herein provided to carry out and effectuate its corporate purposes and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of any project, to lend money to any participating institution for higher education for the acquisition of any federally guaranteed securities and to issue revenue refunding bonds;

(8) To finance, refinance, acquire, construct, equip, provide, operate, own, repair, maintain, extend, improve, rehabilitate, renovate and furnish any project and to pay all or any part of the cost thereof from the proceeds of bonds or notes or from any contribution, gift or donation or other funds available to the agency for such purpose;

(9) To fix, revise, charge and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, loan repayments, fees, rates and charges for the use of, or services rendered by, any project;

(10) To employ fiscal consultants, consulting engineers, architects, attorneys, feasibility consultants, appraisers and such other consultants and employees as may be required in the judgment of the agency and to fix and pay their compensation from funds available to the agency therefor;

(11) To conduct studies and surveys respecting the need for projects and their location, financing and construction;

(12) To apply for, accept, receive and agree to and comply with the terms and conditions governing grants, loans, advances, contributions, interest subsidies and other aid with respect to any project from federal and State agencies or instrumentalities;

(13) To sue and be sued in its own name, plead and be impleaded;

(14) To acquire and enter into commitments to acquire any federally guaranteed security or federally insured mortgage note and to pledge or otherwise use any such federally guaranteed security or federally insured mortgage note in such manner as the agency deems in its best interest to secure or otherwise provide a source of repayment on any of its bonds or notes issued on behalf of any participating institution for higher education to finance or refinance the cost of any project;

(15) To make loans to any participating institution for higher education for the cost of a project in accordance with an agreement between the agency and the participating institution for higher education;

(16) To make loans to a participating institution for higher education to refund outstanding loans, obligations, deeds of trust or advances issued, made or given by such participating institutions for higher education for the cost of a project;

(17) To charge and to apportion among participating institutions for higher education its administrative costs and expenses incurred in the exercise of its powers and duties conferred by this Chapter;

(18) To adopt an official seal and alter the same at pleasure; and

(19) To do all other things necessary or convenient to carry out the purposes of this act.

Sec. 6. Criteria and Requirements. In undertaking any project pursuant to this Chapter, the agency shall be guided by and shall observe the following criteria and requirements; provided that the determination of the agency as to its compliance with such criteria and requirements shall be final and conclusive:

(1) No project shall be sold or leased nor any loan made to any institution for higher education which is not financially responsible and capable of fulfilling its obligations, including its obligations under an agreement of sale or lease or a loan agreement to make purchase price payments, to pay rent, to make loan repayments, to operate, repair and maintain at its own expense the project and to discharge such other responsibilities as may be imposed under the agreement of sale or lease or loan agreement;

(2) Adequate provision shall be made for the payment of the principal of and the interest on the bonds and any necessary reserves therefor and for the operation, repair and maintenance of the project at the expense of the participating institution for higher education;

(3) The public facilities, including utilities, and public services necessary for the project will be made available; and

(4) The projects shall be operated to serve and benefit the public and there shall be no discrimination against any person based on race, creed, color or national origin.

Sec. 7. Procedural Requirements. Any institution for higher education may submit to the agency, and the agency may consider, a proposal for financing a project using such forms and following such instructions as may be prescribed by the agency. Such proposal shall set forth the type and location of the project and may include other information and data available to the institution for higher education respecting the project and the extent to which such project conforms to the criteria and requirements set forth in this Chapter. The agency may request the institution for higher education to provide additional information and data respecting the project. The agency is authorized to make or cause to be made such investigation, surveys, studies, reports and reviews as in its judgment are necessary and desirable to determine the feasibility and desirability of the project, the extent to which the project will contribute to the health and welfare of the area in which it will be located, the powers, experience, background, financial condition, record of service and capability of the management of the institution for higher education, the extent to which the project otherwise conforms to the criteria and requirements of this Chapter, and such other factors as may be deemed relevant or convenient in carrying out the purposes of this Chapter.

Sec. 8. Operations of projects; agreements of sale on leases; conveyance of interest in projects.

The agency may sell or lease any project to a participating institution for higher education for operation and maintenance or lend money to any participating institution for higher education in such manner as shall effectuate the purposes of this Chapter, under a loan agreement or an

agreement of sale or lease in form and substance not inconsistent herewith. Any such loan agreement or agreement of sale or lease may include provisions that:

(1) The participating institution for higher education shall, at its own expense, operate, repair and maintain the project covered by such agreement;

(2) The purchase price payments to be made under the agreement of sale, the rent payable under the agreement of lease or the loan repayments under the loan agreement shall in the aggregate be not less than an amount sufficient to pay all of the interest, principal and any redemption premium on the bonds or notes issued by the agency to pay the cost of the project sold or leased thereunder or with respect to which the loan was made;

(3) The participating institution for higher education shall pay all other costs incurred by the agency in connection with the providing of the project covered by any such agreement, except such costs as may be paid out of the proceeds of bonds or notes or otherwise, including, but without limitation, insurance costs, the cost of administering the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes and the fees and expenses of trustees, paying agents, attorneys, consultants and others;

(4) The loan agreement or the agreement of sale or lease shall terminate not earlier than the date on which all such bonds and all other obligations incurred by the agency in connection with the project covered by any such agreement shall be retired or provision for such retirement shall be made; and

(5) The obligation of the participating institution for higher education to make loan repayments or purchase price payments or to pay rent shall not be subject to cancellation, termination or abatement by the participating institution for higher education until the bonds have been retired or provision has been made for such retirement.

Where the agency has acquired a possessory or ownership interest in any project which it has undertaken on behalf of a participating institution for higher education it shall promptly convey, without the payment of any consideration, all its right, title and interest in such project to such participating institution for higher education upon the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.

Sec. 9. Construction Contracts. If the agency shall determine that the purposes of this act will be more effectively served, the agency in its discretion may award or cause to be awarded contracts for the construction of any project on behalf of a participating institution for higher education upon a negotiated basis as determined by the agency. The agency shall prescribe such bid security requirements and other procedures in connection with the award of such contracts as in its judgment shall protect the public interest. The agency may by written contract engage the services of the participating institution for higher education in the construction of such project and may provide in any such contract that such participating institution for higher education, subject to such conditions and requirements consistent with the provisions of this

Chapter as shall be prescribed in such contract, may act as an agent of, or an independent contractor for, the agency for the performance of the functions described therein, including the acquisition of the site and other real property for such project, the preparation of plans, specifications and contract documents, the award of construction and other contracts upon a competitive or negotiated basis, the construction of such project directly by such participating institution for higher education, the inspection and supervision of construction, the employment of engineers, architects, builders and other contractors and the provision of money to pay the cost thereof pending reimbursement by the agency. Any such contract may provide that the agency may, out of proceeds of bonds or notes, make advances to or reimburse the participating institution for higher education for its costs incurred in the performance of such functions, and shall set forth the supporting documents required to be submitted to the agency and the reviews, examinations and audits that shall be required in connection therewith to assure compliance with the provisions of this Chapter and such contract.

Sec. 10. Credit of State Not Pledged. Bonds or notes issued under the provisions of this Chapter shall not be secured by a pledge of the faith and credit of the State or of any political subdivision thereof or be deemed to create an indebtedness of the State, or of any such political subdivision thereof, requiring any voter approval, but shall be payable solely from the revenues and other funds provided therefor. Each bond or note issued under this Chapter shall contain on the face thereof a statement to the effect that the agency shall not be obligated to pay the same nor the interest thereon except from the revenues and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged as security for the payment of the principal of or the interest on such bond or note.

Expenses incurred by the agency in carrying out the provisions of this Chapter may be made payable from funds provided pursuant to, or made available for use under, this Chapter and no liability shall be incurred by the agency hereunder beyond the extent to which moneys shall have been so provided.

Sec. 11. Bonds and Notes. (a) The agency is hereby authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the agency to carry out and effectuate its corporate purposes. The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this Chapter for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the agency at such price or prices and upon such terms and conditions as may be determined by the agency. The bonds may also be made payable from time to time on demand or tender for purchase by the owner upon such terms and conditions as may be determined by the agency. Any such bonds or notes shall bear interest at such rate or rates (including variable rates) as may be determined by the Local Government Commission of

North Carolina with the approval of the agency. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the agency. The agency shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The agency may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. No bonds or notes may be issued by the agency under this Chapter unless the issuance thereof is approved by the Local Government Commission of North Carolina.

(b) The agency shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of such bonds or notes which shall contain such information and have attached to it such documents concerning the proposed financing and prospective borrower, vendee or lessee as the Secretary may require.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, in addition to the criteria and requirements mentioned in this Chapter, the effect of the proposed financing upon any scheduled or proposed sale of tax-exempt obligations by the State or any of its agencies or departments or by any unit of local government in the State.

The Local Government Commission shall approve the issuance of such bonds or notes if, upon the information and evidence it receives, it finds and determines that the proposed financing will effectuate the purposes of this Chapter.

Upon the filing with the Local Government Commission of a resolution of the agency requesting that its bonds or notes be sold, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interests of the agency and effectuate best the purposes of this Chapter, provided that such sale shall be approved by the agency.

(c) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the agency may provide in the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

(d) Prior to the preparation of definitive bonds, the agency may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, when such bonds shall have been executed and are available for delivery. The agency may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(e) Bonds or notes may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

Sec. 12. Trust Agreement or Resolution. In the discretion of the agency any bonds or notes issued under the provisions of this Chapter may be secured by a trust agreement by and between the agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the agency received pursuant to this Chapter, including, without limitation, fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project and may grant a deed of trust or a mortgage on any project. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the agency in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the agency, including any payments in respect of any federally guaranteed security or any federally insured mortgage note, the duties of the agency with respect to the acquisition, construction, maintenance, repair and operation of any project, the fees, loan repayments, purchase price payments, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. All bonds issued under this Chapter shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in such trust agreement or resolution, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Chapter and of such trust agreement or resolution; except that the agency may provide in such trust agreement or resolution that bonds issued pursuant thereto shall to the extent and in the manner prescribed in such trust agreement or resolution be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other bonds. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds

or to pledge such securities as may be required by the agency. Any such trust agreement or resolution may set off the rights and remedies, including foreclosure of any deed of trust or mortgage, of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any project or paid from the revenues pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the agency.

Sec. 13. Revenues; Pledges of Revenues. (a) The agency is hereby authorized to fix and to collect fees, loan repayments, purchase price payments, rents and charges for the use of any project, and any part or section thereof, and to contract with any participating institution for higher education for the use thereof. The agency may require that the participating institution for higher education shall operate, repair or maintain such project and shall bear the cost thereof and other costs of the agency in connection therewith, all as may be provided in the agreement of sale or lease, loan agreement or other contract with the agency, in addition to other obligations imposed under such agreement or contract.

(b) The fees, loan repayments, purchase price payments, rents and charges shall be fixed so as to provide a fund sufficient, with such other funds as may be made available therefor, (i) to pay the costs of operating, repairing and maintaining the project to the extent that adequate provision for the payment of such costs has not otherwise been provided for, (ii) to pay the principal of and the interest on all bonds or notes as the same shall become due and payable and (iii) to create and maintain any reserves provided for in the resolution authorizing the issuance of, or any trust agreement securing, such bonds; and such fees, loan repayments, purchase price payments, rents and charges may be applied or pledged to the payment of debt service on the bonds prior to the payment of the costs of operating, repairing and maintaining the project.

(c) All pledges of fees, loan repayments, purchase price payments, rents, charges and other revenues under the provisions of this Chapter shall be valid and binding from the time when such pledges are made. All such revenues so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether such parties have notice thereof. The resolution or any trust agreement by which a pledge is created or any loan agreement, agreement of sale or lease need not be filed or recorded except in the records of the agency.

(d) The State of North Carolina does pledge to and agree with the holders of any bonds or notes issued by the agency that so long as any of such bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the agency at the time of issuance of the bonds

or notes to fix, revise, charge, and collect or cause to be fixed, revised, charged and collected loan repayments, purchase price payments, rents, fees and charges for the use of or services rendered by any project in connection with which the bonds or notes were issued, so as to provide a fund sufficient, with such other funds as may be made available therefor, to pay the costs of operating, repairing and maintaining the project, to pay the principal of and the interest on all bonds and notes as the same shall become due and payable and to create and maintain any reserves provided therefor and to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the State in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met and discharged.

Sec. 14. Trust Funds. Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter, including, without limitation, fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The resolution authorizing the issuance of, or any trust agreement securing, any bonds or notes may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this Chapter, subject to such limitations as this Chapter and such resolution or trust agreement may provide. Any such moneys may be invested as provided in G.S. 159-30, as it may from time to time be amended.

Sec. 15. Remedies. Any holder of bonds or notes issued under the provisions of this Chapter or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds or notes, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the agency pursuant to this Chapter, and may enforce and compel the performance of all duties required by this Chapter or by such trust agreement or resolution to be performed by the agency or by any officer thereof.

Sec. 16. Investment Securities. All bonds, notes and interest coupons appertaining thereto issued under this Chapter are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, whether or not they are of such form and character as to be investment securities under said Article 8, subject only to the provisions of the bonds and notes pertaining to registration.

Sec. 17. Bonds or Notes Eligible for Investment. Bonds or notes issued under the provisions of this Chapter are hereby made securities in

which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds or notes are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of this State is now or may hereafter be authorized by law.

Sec. 18. Refunding Bonds or Notes. The agency is hereby authorized to provide for the issuance of refunding bonds or notes for the purpose of refunding any bonds or notes then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds or notes and, if deemed advisable by the agency, for any corporate purpose of the agency, including, without limitation:

(1) Constructing improvements, additions, extensions or enlargements of the project in connection with which the bonds or notes to be refunded shall have been issued, and

(2) Paying all or any part of the cost of any additional project.

The issuance of such bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the agency in respect of the same shall be governed by the provisions of this Chapter which relate to the issuance of bonds or notes, insofar as such provisions may be appropriate therefor.

Refunding bonds or notes may be sold or exchanged for outstanding bonds or notes issued under this Chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such bonds or notes, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in the resolution authorizing the issuance of, or in the trust agreement securing, such bonds or notes, to the payment of any interest on such refunding bonds or notes and any expenses in connection with such refunding. Such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accrued thereon, will be required for the purposes intended.

Sec. 19. Annual Report. The agency shall, promptly following the close of each fiscal year, submit an annual report of its activities under this Chapter for the preceding year to the Governor, the State Auditor, the General Assembly, the Advisory Budget Commission and the Local Government Commission. The agency shall cause an audit of its books and accounts relating to its activities under this Chapter to be made at least

once in each year by an independent certified public accountant and the cost thereof may be paid from any available moneys of the agency.

Sec. 20. Officers Not Liable. No member or officer of the agency shall be subject to any personal liability or accountability by reason of his execution of any bonds or notes or the issuance thereof.

Sec. 21. Tax Exemption. The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and welfare, and no tax or assessment shall be levied upon any project undertaken by the agency prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.

Any bonds or notes issued by the agency under the provisions of this Chapter, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

Sec. 22. Conflict of Interest. If any member, officer or employee of the agency shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly, in any contract with the agency, such interest shall be disclosed to the agency and shall be set forth in the minutes of the agency, and the member, officer or employee having such interest therein shall not participate on behalf of the agency in the authorization of any such contract.

Sec. 23. Additional Method. The foregoing sections of this Chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

Sec. 24. Liberal Construction. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

Sec. 25. Inconsistent Laws Inapplicable. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

Sec. 26. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Sec. 27. This act shall become effective upon certification by the State Board of Elections that an amendment to the North Carolina Constitution authorizing the enactment of general laws dealing with transactions of the type contemplated by this act has been approved by the people of the State.

In the General Assembly read three times and ratified, this the 16th day of June, 1986.

H.B. 1208

CHAPTER 795

AN ACT TO AMEND G.S. 159-83 OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT RELATING TO SEAPORTS AND AIRPORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-83 is amended by adding a new subsection (c) to read:

“(c) In addition to the powers they may now or hereafter have, the State and each municipality shall have the following powers, notwithstanding any provisions of this Article to the contrary, in connection with the development of new and existing seaports and airports:

- (1) To acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interests therein;
- (2) To finance and refinance for public and private parties seaport and airport facilities and improvements that relate to, develop, or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation, and environmental facilities and improvements;
- (3) To secure any such financing or refinancing by all or any portion of its revenues, income, assets, or other available monies and by foreclosable liens on its properties but in no event to create a debt secured by a pledge of its faith and credit.”

Sec. 2. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

Sec. 3. Nothing in this act shall be construed to impair the obligation of any bond, note, or coupon issued under the State and Local Government Revenue Bond Act and outstanding on the effective date of this act.

Sec. 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 4.1. If House Bill 306, 1985 Session, is ratified, then Section 2 of that act is amended by deleting “at the next general election, statewide primary election, or at the next statewide election, whichever is earlier” and substituting “at the general election in November 1986”.

Sec. 5. Section 4.1 of this act is effective upon ratification. The remainder of this act shall become effective upon there becoming effective an amendment to the North Carolina Constitution authorizing the General

Assembly to enact laws dealing with the subject matter of this act as set forth in Section 1 hereof.

In the General Assembly read three times and ratified, this the 16th day of June, 1986.

H.B. 1487

CHAPTER 796**AN ACT TO MERGE THE PITT COUNTY AND GREENVILLE CITY SCHOOL ADMINISTRATIVE UNITS.**

The General Assembly of North Carolina enacts:

Section 1. The existing Pitt County School Administrative Unit and the existing Greenville City School Administrative Unit shall be merged. The resulting consolidated school unit shall be known as the Pitt County School Administrative Unit. The merger shall take effect July 1, 1986, if by that date the United States Attorney General has precleared this act under Section 5 of the Voting Rights Act. If this act has not been precleared by that date, the merger shall take effect upon preclearance.

Sec. 2. There is established the Interim Pitt County Board of Education (the "Interim Board") to consist of the following 15 members:

Group A (from the county board): Mark W. Owens, Jr., James W. A. Black, Ferrell L. Blount, III, J. Beverly Congleton, Jr., Walter E. Gaskins, Robert A. Halstead, Sr., Anne M. McGaughey, Stephen W. Tripp.

Group B (from the city board): George E. Williams, Erma S. Carr, Frank D. Grooms, Stephen G. (Jack) Wall.

Group C (Alfreida Jordan Parker, Matthew Donovan Phillips, David Lee Shackleford.

The Interim Board shall elect a Chair and Vice-Chair from among its members.

Sec. 3. The Interim Board shall take office immediately upon preclearance of this act by the United States Attorney General under Section 5 of the Voting Rights Act, if such preclearance is given before July 1, 1986. If preclearance is not given by that date, the Interim Board shall not take office, but the consolidated Pitt County Board of Education shall take office upon merger as provided in Section 4.

If the Interim Board takes office before the merger, it shall immediately assume authority and responsibility for:

(1) Supervising, coordinating, acquiring, contracting for and constructing all new school buildings to be built within the boundaries of the existing two school units; and

(2) Making contracts, hiring personnel, and adopting policies and procedures for the 1986-87 and subsequent school years; and

(3) Preparing and submitting to the Pitt County Board of Commissioners all necessary budgets for school purposes.

Otherwise, the existing Pitt County and Greenville City Boards of Education shall continue to administer their respective school units until the merger.

Sec. 4. Upon merger, the existing Pitt County and Greenville City Boards of Education and the Interim Board, if it has taken office, are abolished and replaced by the consolidated Pitt County Board of

Education. The consolidated Pitt County Board of Education shall consist of the 15 members named in Section 2 and shall have all the powers and responsibilities previously provided for the Pitt County, Greenville City and Interim Boards and provided by State law generally for county boards of education.

Sec. 5. The members of the consolidated Pitt County Board of Education designated in Section 4 shall serve for terms to expire on December 7, 1987, at which time they shall be replaced by members to be elected in November 1987. The election schedule for that election shall be the same as for municipal, nonpartisan plurality elections. The November 1987 election shall be held according to a method of election enacted by the 1987 General Assembly. Subsequent elections under the plan enacted in 1987 shall be held in 1990 and later years at the time set by G.S. 115C-37(a) for election of county boards of education.

Sec. 6. The consolidated Pitt County Board of Education shall prepare and recommend to the General Assembly a plan for electing members of the consolidated board in 1987 and subsequent years. The Board shall make its recommendation by the time the 1987 General Assembly convenes for its regular session. The Plan shall provide for nonpartisan plurality elections, shall comply with Section 5 of the Voting Rights Act, and shall provide that:

(1) All members will be elected from single-member districts by the voters of the district only, or that some members will be elected from single-member districts and some elected at-large from unnumbered seats; and

(2) Black citizens will have an opportunity to elect candidates of their choice for at least the same proportion of seats as the proportion of minority representatives on the board established by Section 2.

The plan may provide for staggered terms, but, if so, it shall provide that all at-large seats shall be elected at the same time.

Sec. 7. All meetings of the consolidated Pitt County Board of Education to consider or deliberate on the plan to be recommended to the General Assembly for election of the consolidated board, and the meetings of any committees established by the Board for this purpose, shall be open to the public. The Board may, however, meet in executive session to discuss with its attorneys whether the proposed method of election meets applicable requirements of federal and State law. Before adopting a plan to recommend to the General Assembly, the Board shall hold at least one hearing at which the general public has an opportunity to express its views on the proposed plan.

Sec. 8. Vacancies on the Interim Board shall be filled as follows:

(1) A vacancy in Group A shall be filled with the same person the existing Pitt County Board of Education names to fill the vacancy on that board.

(2) A vacancy in Group B shall be filled with a person named by the existing Greenville City Board of Education from its members.

(3) A vacancy in Group C shall be filled with a person chosen by a committee consisting of the remaining members of Group C or their successors and one member each of the existing Pitt County and Greenville City Boards of Education named by those boards.

Sec. 9. Vacancies on the consolidated Pitt County Board of Education which occur prior to December 7, 1987, shall be filled by the remaining members of the Board as follows:

(1) For a vacancy in Group A, the replacement shall reside in the residency district from which the member of the existing Pitt County Board of Education who is being replaced was elected.

(2) For a vacancy in Group B, the replacement shall reside within the boundaries of the Greenville City School Administrative Unit.

(3) For a vacancy in Group C, the replacement shall be a person recommended by a committee consisting of the remaining members of Group C or their successors and one member each of Group A and B chosen by the members in those groups.

Sec. 10. At the time of merger, the title to all property of the existing Pitt County Board of Education and the existing Greenville City Board of Education vests in the consolidated Pitt County Board of Education established by Section 4. All claims and demands of every kind which the two boards may have at the time of merger shall pass and be transferred to the consolidated Pitt County Board of Education and that Board shall have the same authority to enforce those claims and demands as the existing Pitt County and Greenville City Boards would have had if they continued to exist. Any obligations and liabilities of the existing Pitt County and Greenville City Boards of Education shall become the obligations and liabilities of the consolidated Pitt County Board of Education at the time of merger, and those obligations and liabilities may be enforced against that Board to the same extent they might be enforced against the existing boards had they continued to exist.

Sec. 11. At the time of merger the following local acts concerning the Pitt County and Greenville City Boards of Education are repealed: Chapters 89 and 656, Session Laws of 1965; Chapter 360, Session Laws of 1971; Chapter 44, Session Laws of 1977; Chapter 856, Session Laws of 1979.

Sec. 12. Chapters 2 and 495 of the Session Laws of 1985 are repealed.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1986.

S.B. 642

CHAPTER 797

AN ACT TO AMEND THE PROVISIONS OF CHAPTER 64 OF THE GENERAL STATUTES CONCERNING THE RIGHT OF NONRESIDENT ALIENS TO INHERIT PROPERTY LOCATED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 64-3 is rewritten to read as follows:

“§ 64-3. *Nonresident aliens' rights of inheritance.*—No alien residing outside the United States or its territories shall be entitled to take personal property located in this State by succession or testamentary disposition if the laws of the nation of which such alien is a resident prohibit residents of the United States from inheriting personal property

located within that nation. Except as hereinabove provided, no alien shall, by reason of his citizenship or place of residence, be disqualified from inheriting property in this State.”

Sec. 2. G.S. 64-4 is rewritten to read as follows:

“§ 64-4. *Escheats.*—If a decedent owning personal property located within North Carolina shall leave no heirs, heirs at law or legatees other than persons disqualified from inheritance under G.S. 64-3, then such personal property shall escheat.”

Sec. 3. G.S. 64-5 is rewritten to read as follows:

“§ 64-5. *Burden of proof.*—The burden of proof in any action or proceeding to disqualify a nonresident alien from taking personal property located within this State by succession or testamentary disposition by reason of the provisions of G.S. 64-3, shall be upon the person asserting the disqualification.”

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1986.

H.B. 647

CHAPTER 798

AN ACT TO AUTHORIZE WAYNE COUNTY TO PAY BOUNTIES ON BEAVERS.

The General Assembly of North Carolina enacts:

Section 1. Wayne County may by ordinance establish a program to relocate or to pay bounties on beavers and thereby reduce the beaver population in the county.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1986.

H.B. 1811

CHAPTER 799

AN ACT TO ALLOW ADDITIONAL TIME FOR THE HISTORIC PRESERVATION FUND OF EDGEcombe COUNTY TO RAISE MATCHING FUNDS TO RELOCATE A HISTORIC STRUCTURE TO THE DUNBAR COMMUNITY.

The General Assembly of North Carolina enacts:

Section 1. Section 27 of Chapter 778, Session Laws of 1985 is amended by deleting “June 20, 1986”, both places those words appear, and substituting “June 20, 1987”, and by deleting “July 1, 1986”, and substituting “July 1, 1987”.

Sec. 2. Funds appropriated by Section 27 of Chapter 778, Session Laws of 1985 shall not revert at the end of fiscal year 1985-86, but shall remain available until June 30, 1987.

Sec. 3. This act shall become effective June 19, 1986.

In the General Assembly read three times and ratified, this the 19th day of June, 1986.

H.B. 611

CHAPTER 800

AN ACT TO ALLOW LICENSED DIRECT RESPONSE WRITERS OF LIFE AND HEALTH INSURANCE TO TRANSACT BUSINESS WITHOUT AGENTS LICENSED BY NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-51.3 is amended by adding the following:

“(4) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-72(1) through G.S. 58-72(3) that do business without the involvement of a licensed agent.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 939

CHAPTER 801

AN ACT TO AMEND THE NONPROFIT CORPORATION ACT CONTAINED IN CHAPTER 55A OF THE GENERAL STATUTES OF NORTH CAROLINA AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION; AND TO AMEND THE BUSINESS CORPORATION ACT CONTAINED IN CHAPTER 55 OF THE GENERAL STATUTES OF NORTH CAROLINA TO PROVIDE FOR RESTRICTIONS ON CUMULATIVE VOTING FOR DIRECTORS AND ON CALLING MEETINGS OF STOCKHOLDERS OF PUBLICLY HELD COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-2(8) is amended in the third line thereof by inserting after the language “or officers,” and before the word “and” the language “except as permitted by Section 55A-28,”.

Sec. 2. G.S. 55A-4(a)(6) is amended in the first line thereof by deleting the words “be promptly delivered” and substituting in lieu thereof the language “, within 60 days after the receipt by the corporation or its representative, be delivered”.

Sec. 3. G.S. 55A-7(a)(2) is amended by adding at the end thereof the following new sentence:

“When the articles fail to state the period of duration, it shall be considered perpetual.”

Sec. 4. G.S. 55A-7(a)(3) is amended by adding at the end thereof the following new sentence:

“It shall be sufficient to state, either alone or with other purposes, that the purpose for which the corporation is organized is to engage in any lawful act or activity for which corporations may be organized under this Chapter; and by such statement all lawful acts and activities for corporations organized under this Chapter shall be within the purposes of the corporation, subject to any express limitations.”

Sec. 5. Chapter 55A of the General Statutes is amended by inserting a new section to read:

“§ 55A-8.1. *Exercise of corporate franchises not granted.*—The Attorney General may upon his own information or upon complaint of a private party bring an action in the name of the State to restrain any person from exercising corporate franchises not granted.”

Sec. 6. G.S. 55A-9 is amended in the last line thereof by deleting the citation “G.S. 55A-86” and inserting in lieu thereof the citation “G.S. 55A-33.1”.

Sec. 7. G.S. 55A-10 is amended by adding at the end thereof the following new subsection:

“(j) The issuance of a corporate charter to any domestic corporation shall not authorize the use in this State of the corporate name in violation of the rights of any third party under the Federal Trademark Act, the Trademark Act of this State, or the common law; and the issuance of such charter shall not be a defense to an action for violation of any such rights.”

Sec. 8. G.S. 55A-15(a)(6) is repealed.

Sec. 9. G.S. 55A-15(a)(7) is rewritten to read:

“(7) To lend money to its employees and otherwise to assist its employees, officers, and directors, subject to the provisions of G.S. 55A-18.”

Sec. 10. G.S. 55A-15(a)(8) is rewritten to read as follows:

“(8) To provide for indemnification in accordance with the provisions of G.S. 55A-17.1, G.S. 55A-17.2 and G.S. 55A-17.3.”

Sec. 11. G.S. 55A-15(a)(10) is repealed.

Sec. 12. G.S. 55A-15(a) is amended by adding at the end thereof the following new subdivision:

“(11) To pay pensions and establish pension plans, pension trusts, bonus plans and other incentive plans for its officers, directors and employees.”

Sec. 13. G.S. 55A-15(b) is amended by adding at the end thereof the following new subdivisions:

“(9) To make contributions or gifts to corporations (foreign or domestic), trusts, community chests, funds, foundations, or associations organized and operated exclusively for religious, charitable, literary, scientific, or educational, cultural or artistic purposes, or for public welfare, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any member or individual, when such contributions or gifts are authorized or approved by its boards of directors.

(10) To enter into contracts of guaranty or suretyship or to make other financial arrangements for the benefit of any person, firm or corporation.

(11) To enter into any arrangement with others for the sharing of benefits or union of interests with respect to any transaction, operation or venture which the corporation has power to conduct by itself, even if such arrangement involves sharing or delegation of control of such transaction, operation or venture with or to others.”

Sec. 14. G.S. 55A-15(b)(4) is amended in the last line thereof by inserting after the words “pledge of” and before the words “all or” the words “or other form of security upon”.

Sec. 15. G.S. 55A-17.1(a) is rewritten to read as follows:

“(a) Subject to any restrictions in its charter, a corporation may provide, by bylaw, agreement, vote of board of directors or members, or otherwise, for indemnification of any director or officer or former director or officer of the corporation or any person who may have served at its request as a director or officer of another corporation, partnership, joint venture, trust or other enterprise against liabilities and reasonable litigation expenses, including attorneys’ fees, incurred by him in connection with any action, suit or proceeding in which he is made or threatened to be made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to have acted in bad faith or to have been liable or guilty by reason of willful misconduct in the performance of duty. The indemnification authorized by this statute shall be in addition to that permitted by G.S. 55A-17.2 and 55A-17.3.”

Sec. 16. G.S. 55A-17.1(d) is amended by deleting the words “this section, or in G.S. 55A-17.2 or 55A-17.3, or by any bylaw, agreement, vote of board of directors or members, or otherwise.” and inserting in lieu thereof the words: “G.S. 55A-17.2 or 55A-17.3 or as authorized in any bylaw, agreement, vote of board of directors or members, or other arrangement permitted by this section.”

Sec. 17. G.S. 55A-18 is rewritten to read:

“§ 55A-18. *Loans and guaranties.*—No loan, guaranty or other form of security shall be made or provided by a corporation to or for the benefit of its directors or officers, except that loans, guaranties or other forms of security may be made to full-time employees of the corporation who are also directors or officers by action of its board of directors in accordance with G.S. 55A-24.2(b)(1).”

Sec. 18. G.S. 55A-19 is rewritten to read:

“§ 55A-19. *Board of directors.*—(a) Subject to the provisions of the charter, the bylaws or agreements between the members otherwise lawful, the business and affairs of a corporation shall be managed by a board of directors.

(b) No limitation upon the authority which the directors would have in the absence of such limitation, whether contained in the charter or the bylaws or otherwise, shall be effective against other persons without actual knowledge of such limitation.

(c) The directors need not be residents of this State or members of the corporation unless the charter or the bylaws so require. The charter or the bylaws may prescribe other qualifications for directors.”

Sec. 19. G.S. 55A-20(c) is rewritten to read:

“(c) The first board of directors shall consist of those named in the articles of incorporation. Thereafter, directors shall be elected or appointed or designated ex officio in the manner and for the terms provided in the charter or bylaws. Directors to be elected by members shall be elected by the members entitled to vote at the first meeting of the members held for that purpose and at each subsequent annual meeting of the members. Such election may be by mail if the bylaws so provide. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.”

Sec. 20. G.S. 55A-20(d) is amended by deleting the second sentence thereof which begins with the word "Each" and ends with the word "qualified".

Sec. 21. G.S. 55A-20(e) is amended in the first line thereof by deleting the word "Election" and substituting in lieu thereof the language "If any member so demands, election"; and is further amended in the first line thereof by inserting a comma after the word "ballot" and before the word "unless".

Sec. 22. G.S. 55A-23(a) is amended by adding at the end thereof a new subdivision to read:

"(5) The fixing of compensation of the directors for serving on the board or on any such committee."

Sec. 23. G.S. 55A-23(c) is amended in the third line thereof by deleting the statutory reference "55A-86" and substituting in lieu thereof the statutory reference "55A-33.1"; and is further amended in the last line thereof by inserting after the word "law" and before the period the language "; and any resolutions adopted or other action taken by any such committee within the scope of the authority delegated to it by the board of directors shall be deemed for all purposes to be adopted or taken by the board of directors".

Sec. 24. G.S. 55A-24(c) is rewritten to read:

"(c) Regular meetings of the board of directors may be held with or without notice, as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is provided in the bylaws, or in the absence of any such provision, upon notice sent by any usual means of communication not less than five days before the meeting. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws. Notice of an adjourned meeting need not be given if the time and place are fixed at the meeting adjourning and if the period of adjournment does not exceed 10 days in any one adjournment."

Sec. 25. G.S. 55A-24(d) is repealed.

Sec. 26. Chapter 55A of the General Statutes is amended by inserting a new section to read:

"§ 55A-24.2. *Director's adverse interest.*—(a) A corporation may, by action of its board of directors or otherwise, compensate its directors for their services as directors, salaried officers or otherwise.

(b) No corporate transaction in which a director has an adverse interest is either void or voidable by virtue of the adverse interest, if:

- (1) With knowledge on the part of the other directors of such adverse interest, the transaction is approved in good faith by a majority, not less than two, of the disinterested directors present even though less than a quorum, irrespective of the participation of the adversely interested director in the approval, or if

- (2) In the case of a corporation with members, after full disclosure of all the material facts to all the members, the transaction is specifically approved by a vote of the majority of the votes entitled to be cast by the members other than votes entitled to be cast by the adversely interested directors or by members controlled by the adversely interested directors, or if
- (3) The adversely interested party proves that the transaction was just and reasonable to the corporation at the time when entered into or approved. In the case of compensation paid or voted for services of a director as director or as officer or employee the standard of what is 'just and reasonable' is what would be paid for such services at arm's length under competitive conditions."

Sec. 27. Chapter 55A of the General Statutes is amended by inserting a new section to read:

"§ 55A-24.3. *Jurisdiction over and service on nonresident director.*—(a) Every nonresident of this State who shall become a director of a domestic corporation shall by becoming such director be subjected to the jurisdiction of the courts of this State in all actions or proceedings brought therein by, or on behalf of, or against said corporation in which said director is a necessary or proper party, or in any action or proceeding by members or creditors against said director for violation of his duty as director. Every nonresident who is a director of a domestic corporation as of the effective date of this act shall be likewise so subject to the jurisdiction of the courts of this State unless he shall, on or before January 1, 1987, resign his office and file in the office of the Secretary of State a notice of such resignation.

(b) Every nonresident by serving as a director of a domestic corporation at any time after January 1, 1987, shall be subject to the jurisdiction of the courts of this State in any action or proceeding for violation of his duty while in office.

(c) Every resident in this State who shall become a director of a domestic corporation and thereafter removes his residence from this State shall be subject to the jurisdiction of the courts of this State in all actions or proceedings brought therein by, or on behalf of, or against said corporation in which said director is a necessary or proper party, or in any action or proceeding by members or creditors against said director for violation of his duty as a director.

(d) In all actions or proceedings wherein a director or former director is made a party and cannot with due diligence be found within the State, service of process, notice or demand on said director or former director shall be made by mailing or otherwise delivering duplicate copies thereof to the Secretary of State, who shall be deemed to have been constituted the process agent of such director or former director by the act of such director in becoming a director or continuing as director after January 1, 1987. When such copies are to be delivered to the Secretary of State the procedure to be followed shall be, as against such director or former director, substantially the same as that set forth in G.S. 55A-68 relating to service on foreign corporations by serving the Secretary of State, and service made pursuant to such procedure shall have the same legal force and validity as if the service had been made personally in this State."

Sec. 28. G.S. 55A-25 is rewritten to read:

“§ 55A-25. *Officers.*—(a) Every corporation organized under this Chapter shall have such officers with such titles and duties as shall be stated in the bylaws and as may be necessary to enable it to sign instruments and to conduct its business in compliance with this Chapter. Any number of offices may be held by the same person and any one office may be held collectively by one or more persons unless the charter or bylaws otherwise provide, but no officer may act in more than one capacity where action of two or more officers is required. Whenever a specific office is referred to in this Chapter, it shall be deemed to include any person who, individually or collectively with one or more persons, holds or occupies such office.

(b) All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided either specifically or generally in the bylaws, or as may be determined by action of the board of directors not inconsistent with the bylaws.

(c) The chief executive officer has authority to institute or defend legal proceedings when the directors are deadlocked.”

Sec. 29. Chapter 55A of the General Statutes is amended by inserting a new section to read:

“§ 55A-26.1. *Duty of directors and officers to corporation.*—Officers and directors shall be deemed to stand in a fiduciary relation to the corporation and to its members, if any, and shall discharge the duties of their respective positions in good faith, and with that diligence and care which ordinarily prudent men would exercise under similar circumstances in like positions.”

Sec. 30. Chapter 55A of the General Statutes is amended by inserting a new section to read:

“§ 55A-26.2. *Execution of corporate instruments; authority and proof.*—(a) Notwithstanding anything to the contrary in the charter or bylaws, any deed, mortgage, contract, note, evidence of indebtedness, proxy, or other instrument in writing, or any assignment or endorsement thereof, whether heretofore or hereafter executed, when signed in the ordinary course of business on behalf of a corporation by its president, a vice-president or an assistant vice-president and attested or countersigned by its secretary or an assistant secretary, not acting in dual capacity, shall with respect to the rights of innocent third parties, be as valid as if executed pursuant to authorization from the board of directors, unless the instrument reveals on its face a potential breach of fiduciary obligation. The foregoing shall not apply to parties who had actual knowledge of lack of authority or of a breach of fiduciary obligation or to the execution of corporate securities which are required, by corporate regulations or resolutions formally adopted, to be signed or countersigned by a transfer agent or registrar who has agreed to act in that capacity.

(b) Any instrument purporting to create a security interest in personal property of a corporation, is sufficiently executed on behalf of the corporation if heretofore or hereafter signed in his official capacity by the president, a vice-president, an assistant vice-president, the secretary, an

assistant secretary, the treasurer, or an assistant treasurer. Any instrument so executed shall, with respect to the rights of innocent holders, be as valid as if authorized by the board of directors and upon acknowledgment may be ordered to registration as provided by law.

(c) Deeds, mortgages, contracts, notes, evidences of indebtedness and other instruments purporting to be executed, heretofore or hereafter, by a corporation, foreign or domestic, and bearing a seal which purports to be the corporate seal, setting forth the name of the corporation engraved, lithographed, printed, stamped, impressed upon, or otherwise affixed to the instrument, are *prima facie* evidence that the seal is the duly adopted corporate seal of the corporation, that it has been affixed as such by a person duly authorized so to do, that such instrument was duly executed and signed by persons who were officers or agents of the corporation acting by authority duly given by the board of directors, that any such instrument is the act of the corporation, and shall be admissible in evidence without further proof of execution.

(d) The provisions of the foregoing subsections of this section shall apply to all instruments therein mentioned executed on behalf of foreign corporations when their authorization, admissibility in evidence or legal effect is challenged in any action or other proceeding in this State.

(e) Nothing in this section shall be deemed to exclude the power of any corporate representatives to bind the corporation pursuant to express, implied or apparent authority, ratification, estoppel or otherwise.

(f) Nothing in this section shall relieve corporate officers from liability to the corporation or from any other liability that they may have incurred from any violation of their actual authority."

Sec. 31. G.S. 55A-27 is amended in the seventh line thereof by inserting after the word "inspected" and before the word "by" the words "and copied".

Sec. 32. G.S. 55A-28 is rewritten to read:

"§ 55A-28. *Shares of stock and certain distributions of assets prohibited.*—(a) A corporation shall neither authorize nor issue shares of stock.

(b) No distribution of assets of a corporation shall be made to its members, directors or officers except as provided in subsection (c) or (d) of this section.

(c) A corporation may pay reasonable amounts to its members, directors or officers for services rendered or other value received, may confer benefits upon its members in conformity with its purposes, and may make distributions upon dissolution or final liquidation as permitted by this Chapter.

(d) Subject to the provisions of subsection (e), a corporation may make distributions to any organization that: (i) is a corporation organized under this Chapter or (ii) qualifies as an exempt organization (foreign or domestic) under Section 501(c)(3) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax laws.

(e) A corporation shall not make distributions to members under subsection (d) of this section if at the time of or as a result of such distribution:

- (1) There is reasonable ground for believing that the corporation would be unable to meet its obligations as they become due in the ordinary course of business, or
- (2) The liabilities of the corporation would exceed the fair present value of its assets."

Sec. 33. Chapter 55A of the General Statutes is amended by inserting a new section to read:

"§ 55A-28.1. *Liability of directors in certain cases.*—(a) The liabilities imposed by this section are in addition to any other liabilities imposed by law upon directors of a corporation.

(b) Directors of a corporation who vote for or assent to any distribution of the assets of a corporation contrary to the provisions of this Chapter or contrary to any lawful restrictions contained in the charter or bylaws shall be jointly and severally liable to the corporation for the amount of such distribution.

(c) The liability of directors for violation of subsection (b) of this section shall not exceed the debts, obligations and liabilities existing at the time of the violation which are not thereafter paid and discharged, plus any loss sustained from the violation by members at the time of the violation other than the members receiving the payment in question.

(d) The directors of a corporation who vote for or assent to any distribution of assets of a corporation during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known or reasonably ascertainable debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

(e) The directors of a corporation who vote for or assent to the making of any loan or guaranty or other form of security in violation of G.S. 55A-18 shall be jointly and severally liable to the corporation for the repayment or return of the money or value loaned, with interest thereon at the rate of six percent (6%) a year until paid, or for any liability of the corporation upon the guaranty.

(f) A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action. If action taken by an executive committee is not thereafter formally considered by the board, a director may dissent from such action by filing his written objection with the secretary of the corporation with reasonable promptness after learning of such action.

(g) A director shall not be liable under subsections (b) or (d) of this section if he relied and acted in good faith and reasonably upon financial statements of the corporation represented to him to be correct and to be

based upon generally accepted principles of sound accounting practice by the president or the officer of such corporation having charge of its books of account, or certified by an independent public accountant or by a certified public accountant or firm of such accountants to fairly reflect the financial condition of such corporation.

(h) Any director who is held liable upon and pays a claim asserted against him under or pursuant to this section for the unlawful distribution of assets shall be entitled to reimbursement or exoneration from the recipients who accepted or received any such distribution, knowing such distribution to have been made in violation of this section, in proportion to the amounts received.

(i) Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted and in any action against him shall, on motion, be entitled to have such directors made parties defendant.

(j) Except where the properties of a corporation are being administered in liquidation, or under court supervision for the benefit of creditors, or in the event that the official administering such properties refuses to bring an action for violation of this section, any creditor damaged by a violation of this section may in one action obtain judgment against the corporation and enforce the liability of one or more of the directors to the corporation imposed by this section to the extent necessary to satisfy his claim, or he may in a separate action obtain such judgment and then enforce such liability.

(k) No action shall be brought against the directors for liability under this section after three years from the time when the cause of action was discovered or ought to have been discovered."

Sec. 34. Chapter 55A of the General Statutes is amended by inserting a new section to read:

"§ 55A-28.2. *Members' and directors' derivative actions.*—(a) An action may be brought in this State in the right of any domestic or foreign corporation by a director or member, if any, of such corporation; provided that, in the case of a suit by a member, the plaintiff or plaintiffs must allege, and it must appear, that each plaintiff was a member at the time of the transaction of which he complains.

(b) The complaint shall allege with particularity the efforts, if any, made by the plaintiff to obtain the action he desires from the directors or comparable authority and the reasons for his failure to obtain the action or for not making the effort.

(c) Such action shall not be discontinued, dismissed, compromised or settled without the approval of the court. If the court shall determine that the interests of the members or of the creditors of the corporation, will be substantially affected by such discontinuance, dismissal, compromise or settlement, the court, in its discretion, may direct that notice, by publication or otherwise, shall be given to such members or creditors whose interests it determines will be so affected. If notice is so directed to be given, the court may determine which one or more of the parties to the action shall bear the expense of giving the same, in such amount as the court shall determine and find to be reasonable in the

circumstances, and the amount of such expense shall be awarded as costs of the action.

(d) If the action on behalf of the corporation is successful, in whole or part, whether by means of a compromise and settlement or by a judgment, the court may award the plaintiff the reasonable expenses of maintaining the action, including reasonable attorneys' fees, and shall direct the plaintiff to account to the corporation for the remainder of any proceeds of the action.

(e) In any such action the court, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the defendant or defendants the reasonable expenses, including attorneys' fees, incurred by them in the defense of the action."

Sec. 35. G.S. 55A-32(a) is amended in the second line thereof by inserting after the word "charter" and before the period the words "or in the initial bylaws adopted by the directors or in any bylaws adopted by the members".

Sec. 36. G.S. 55A-35(a) is amended by adding at the end thereof a new subdivision to read:

"(3) Before the action required by G.S. 55A-9, amendments to the charter may be made, either by the directors named therein or by the incorporators, by preparing and delivering to the Secretary of State articles of amendment complying with the provisions of G.S. 55A-36."

Sec. 37. G.S. 55A-35 is amended by adding at the end thereof a new subsection to read:

"(c) At any time before delivery of the articles of amendment to the Secretary of State the board of directors may, in its discretion, abandon an amendment if so empowered in the resolutions of the members adopting the amendment."

Sec. 38. G.S. 55A-37 is amended by rewriting the catch line to read: "*Effect of amendment.*"

Sec. 39. G.S. 55A-42.1(c) is amended in the sixth line thereof by inserting after the words "arising out of" and before the words "any act or" the words "the merger or consolidation or out of"; and is further amended in the seventh line thereof by inserting after the words "prior to" and before the words "the merger" the words "or contemporaneous with".

Sec. 40. G.S. 55A-43 is amended by designating the present section as subsection (b), by deleting the word "A" in the first line thereof and substituting in lieu thereof the words "Any other", by deleting the language " , mortgage, pledge" each time that it appears in the present section, and by adding a new subsection (a) to read:

"(a) A mortgage of or other security interest in all or any part of the property of a corporation may be made by authority of the board of directors without authorization of the members, unless otherwise provided in the charter or the bylaws."

Sec. 41. G.S. 55A-44(b) is amended in the fifth line thereof by inserting after the word "and" and before the word "shall" the language "such notice shall be published once a week for four successive weeks in a newspaper published in the county wherein the corporation has its

registered office, and, if there be no newspaper published in such county, then in some newspaper of general circulation in such county. The corporation”.

Sec. 42. G.S. 55A-53 is amended as follows:

(1) by rewriting the catch line to read: “*Power of courts to liquidate and decree involuntary dissolution or to grant other relief.*”;

(2) in sub-subdivision (a)(2)b. thereof by deleting the words “owing and it is established that the corporation is insolvent” and substituting in lieu thereof the words “it is established that the corporation is unable to pay its debts in the ordinary course of business”;

(3) by rewriting subdivision (a)(4) to read:

“(4) In an action brought by the Attorney General under G.S. 55A-51.”;

(4) in subsection (c) by deleting the words “or the principal office”;

(5) by deleting the subsection (e); and

(6) by adding a subsection (f) to read:

“(f) In any proceeding under this section, the court may make such order or grant such relief, other than dissolution as in its discretion it deems appropriate, including, without limitation, an order:

(1) Canceling or altering any provision contained in the charter or the bylaws of the corporation; or

(2) Canceling, altering, or enjoining any resolution or other act of the corporation; or

(3) Directing or prohibiting any act of the corporation or of members, directors, officers or other persons party to the action; or

(4) Appointing a provisional director.

Such relief may be granted as an alternative to a decree of dissolution, or may be granted whenever the circumstances of the case are such that relief, but not dissolution, would be appropriate.”

Sec. 43. Chapter 55A of the General Statutes is amended by inserting a new section to read:

“§ 55A-57.1. *Voluntary surrender of corporate rights and franchises by incorporators.*—The incorporators named in the articles of incorporation may, before the receipt of any assets and before beginning the activities for which the corporation has been incorporated, surrender the existing corporate rights and franchises, by filing a certificate in the Office of the Secretary of State in the manner prescribed by G.S. 55A-4, verified by oath, that no assets have been received and that such activities have not been begun, and surrendering all rights and franchises. Thereupon the corporation becomes nonexistent and is cancelled as if such corporation had never been created.”

Sec. 44. G.S. 55-61(c) is amended by deleting the period at the end of the first sentence and substituting the following:

“; provided, however, unless otherwise provided in the charter or bylaws, the call of a special meeting by shareholders is not available to the shareholders of a corporation whose shares of any class or series, when the stock transfer books are closed or at the record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting of shareholders, are listed on a national securities exchange or are held of record by more than 2,000 shareholders.”

Sec. 45. G.S. 55-67(c) is amended by inserting after the first sentence the following:

“Unless the charter provides otherwise, this right of cumulative voting shall not be available to shareholders of any corporation if, when the stock transfer books are closed or at the record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting called for the election of directors, the corporation has shares of any class or series entitled to be voted at such meeting listed on a national securities exchange or held of record by more than 2,000 shareholders.”

Sec. 46. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 992

CHAPTER 802

AN ACT TO CLARIFY THE UNFAIR DEBT COLLECTION PRACTICES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-56 is amended in the second sentence by inserting between the phrase “75-16,” and the word “civil” the following words and punctuation:

“in private actions or actions instituted by the Attorney General,”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1443

CHAPTER 803

AN ACT TO ABOLISH THE OFFICES OF TREASURER AND CONSTABLE IN THE TOWN OF PANTEGO AT THE END OF THEIR CURRENT TERM OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of Pantego, being Chapter 93, Private Laws of 1881, is rewritten to read:

“Sec. 3. The elective officers of the town are the mayor and five commissioners.”

Sec. 2. This act shall become effective at the expiration of the current term of the treasurer and constable of the Town of Pantego.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1488

CHAPTER 804

AN ACT TO ALLOW TOWNS IN JOHNSTON COUNTY TO EXERCISE EXTRATERRITORIAL PLANNING POWERS WITHIN JOHNSTON COUNTY WITHIN TWO MILES OF THE CORPORATE LIMITS WITH THE APPROVAL OF THE JOHNSTON COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-360(a) is amended by adding the following new sentence immediately after the third sentence:

“Notwithstanding the third sentence of this subsection, and with the approval of the Johnston County Board of Commissioners, each of the Towns of Benson, Clayton, Four Oaks, Kenly, Micro, Pine Level, Princeton, Selma, and Smithfield may exercise these powers over an area in Johnston County extending not more than two miles beyond its limits.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1489

CHAPTER 805

AN ACT TO PROVIDE FOR ENFORCEMENT OF BUILDING AND OTHER CODES BY THE COUNTY OF CRAVEN AS TO PROPERTY OF THE NEW BERN-CRAVEN COUNTY BOARD OF EDUCATION RATHER THAN BY CITIES IN THAT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Craven County shall have the exclusive jurisdiction as against any city as defined by G.S. 160A-1 for the administration and enforcement of all laws, statutes, code requirements and all other applicable regulations promulgated by the State or any city respecting building, construction, fire and safety codes as the same relate to or are legally applicable to the New Bern-Craven County Board of Education.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1508

CHAPTER 806

AN ACT TO AMEND THE CHARTER OF THE CITY OF LEXINGTON.

The General Assembly of North Carolina enacts:

Section 1. Section 7.2 of the Charter of the City of Lexington, being Section 1 of Chapter 906, Session Laws of 1981, is amended as follows:

(1) Paragraph 3 is rewritten to read:

“3. Duties of Commission. The Commission shall act as an advisory body to the City Council in fixing rates and other charges concerning the public enterprises operated by the City. The Commission shall keep the City Council and City Manager fully informed as to the general operations

of the various systems and make appropriate recommendations. The Commission shall also hear citizen concerns and grievances, and hear and finally determine controversies concerning operation of the various systems, such as potential termination of service for nonpayment or other reasons, alleged violations of sewer use or surcharge regulations, and revocation of water and sewer permits, if those matters have not been resolved to the satisfaction of the parties at the administrative level. The Commission shall also perform such other duties as the Council may direct."

(2) Paragraph 4, entitled "Organization," is amended by deleting the word "election" in the second line and substituting the word "appointment".

(3) Paragraph 5 is rewritten to read:

"5. Records. The Commission shall keep full and accurate records of all meetings held and official action taken."

(4) Paragraph 6, entitled "Fiscal Procedures," is rewritten to read:

"6. Fiscal Procedures. The financial practices and operations of the public enterprises shall be in accordance with the Local Government Budget and Fiscal Control Act and the Local Government Bond Act contained in Chapter 159 of the General Statutes."

(5) Paragraph 7, entitled "Supervision of Electric Light, Water and Sewerage Plants," is rewritten to read:

"7. Operation of Public Enterprises. The City Manager, through his designees, shall be responsible for operation and management of the various systems, including supervision of personnel, and for implementation of policies set by the City Council. The Commission shall make studies and investigations as necessary to advise the City Council and City Manager in those responsibilities."

(6) Paragraph 8, entitled "Contract by Commission," is rewritten to read:

"8. Public Enterprise Contracts and Property. All contracts concerning public enterprises shall be made, ratified or authorized in the same manner as other contracts of the City of Lexington. Title to all public enterprise property shall be held by the City of Lexington."

(7) Paragraph 9, entitled "Proceeds of Bonds and Special Funds," is repealed.

(8) Paragraph 10, entitled "Power of Commission in Management of Property," is repealed.

(9) Paragraph 11, entitled "Power to Fix Rates and Rents," is repealed.

(10) Paragraph 12, entitled "Annual Budget," is rewritten to read:

"12. Budget Recommendations. The Commission shall make recommendations to the City Manager and City Council concerning the public enterprise budgets."

(11) Paragraph 13, entitled "Annual Report," is rewritten to read:

"13. Financial Reports. The Commission shall make financial reports to the City Manager and the City Council as appropriate."

(12) Paragraph 14, entitled "Salary of the Commission and Utilities Manager," is rewritten to read:

"14. Compensation. As compensation for their services, each member of the Commission shall be paid a salary established by action of the City Council."

(13) Paragraph 16, entitled "Appropriation of Revenues," is repealed.

(14) Paragraph 17, entitled "Powers of City," is repealed.

Sec. 2. The purpose of this act is to vest in the Lexington City Council and City Manager certain powers and duties previously vested in the Lexington Utility Commission. Those powers and duties shall be exercised and fulfilled in accordance with the general laws of North Carolina.

Sec. 3. This act shall not affect any rights or interests which arose under any provisions amended or repealed by this act.

Sec. 4. No action or proceeding pending on the effective date of this act by or against the City of Lexington or the Utility Commission shall be abated or affected by this act.

Sec. 5. This act shall become effective July 1, 1986, or upon ratification, whichever is later.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1539

CHAPTER 807

AN ACT TO UPDATE THE CHARTER OF THE CITY OF GREENSBORO CONSISTENT WITH STATE LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 4.91(b)(1) of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, as amended by Section 10 of Chapter 686, Session Laws of 1961, and by Section 5, Chapter 142, Session Laws of 1969, is amended by rewriting the first sentence to read: "Life insurance benefits payable upon the death of an employee."

Sec. 2. Section 6.61(a) of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, is amended by rewriting the second sentence to read: "In addition, upon receipt of a sufficient petition signed by the owners of a majority of the property abutting a street, requesting that it be closed, and after an investigation of the sufficiency of the petition by the City Attorney, the City Clerk shall publish a notice of a public hearing to be held by the council, such publication to be once a week for two successive weeks in a newspaper published in the city which is qualified to carry legal notices; the notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing."

Sec. 3. Section 6.61 of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, is amended by adding a new subsection to read:

"(c) The provisions contained herein shall not be construed to limit the authority of the city under this Charter or under general law to sell, exchange, convey, or otherwise dispose of any fee interest which it may have acquired in any street."

Sec. 4. Article 1 (Eminent Domain) of Subchapter B of Chapter VI (Sections 6.101 through 6.120) of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, as amended by Sections 17, 18, and 19 of Chapter 74 of the Session Laws of 1967, Section 14, Chapter 142, Session Laws of 1969, Chapter 784, Session Laws of 1973, and by Section 5, Chapter 29, Session Laws of 1971 is repealed.

Sec. 5. Section 5.65(c) of the Charter of the City of Greensboro, being Chapter 1137, Session Laws of 1959, as set forth in Section 4, Chapter 29 of the Session Laws of 1971, is amended by deleting "fifteen (15) days" and substituting "thirty days."

Sec. 6. Section 6.139(b) of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, is amended by deleting all of the subsection following the first sentence and substituting: "A copy of the notice shall be mailed to the owners of the land subject to assessment for such improvements as shown on the county tax records. The person designated to mail these notices shall file with the council a certificate showing that they were mailed by first-class mail and on what date; the mailing of notices shall be completed not less than five days prior to the date fixed for the hearing."

Sec. 7. Section 7.01 of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, is repealed.

Sec. 8. Subsections (a) and (c) of Section 7.02 of the Charter of the City of Greensboro, being Chapter 1137 of the Session Laws of 1959, are repealed, and subsection (b) of that section is amended by deleting "(b)".

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1552

CHAPTER 808

AN ACT CONCERNING CONSTRUCTION AND OPERATION OF DOCK FACILITIES ON PROPERTY OWNED BY THE TOWN OF MANTEO.

The General Assembly of North Carolina enacts:

Section 1. The requirements of G.S. 143-128, 143-129, 143-132 and 160A-272, and Article 3, Chapter 44A of the General Statutes, shall not apply to contracts and leases entered into by the Town of Manteo for construction and operation of additional docks, piers and associated facilities in connection with the waterfront property owned by the Town adjacent to Bicentennial Park; provided, that the term of such contracts and leases shall not exceed 20 years.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1637

CHAPTER 809

AN ACT TO AUTHORIZE TRANSYLVANIA COUNTY TO ADOPT
“PRE-DEVELOPMENT ORDINANCES”.

Whereas, steep slopes, shallow, fragile soils, and stream valleys with high water tables make some mountainous areas unsuitable or unfeasible for development; and

Whereas, mountain soil and topographic conditions can limit the use of on-site sewage disposal systems and aggravate potential soil erosion and sedimentation problems; and

Whereas, early planning and consultation can help ensure that the limitations of each development site are recognized early in the development process; and

Whereas, lack of proper site planning can jeopardize the economic feasibility of the development plan for the property owner or developer and harm unsuspecting lot purchasers; and

Whereas, not all developers are familiar with the various federal, State, and local laws currently affecting the development and subdivision of land in western North Carolina counties; and

Whereas, counties are capable of providing planning and consultation help to developers and can help inform property owners and developers of the federal, State, and local laws and regulations that may affect the development of their land and help ensure adherence to these requirements; and

Whereas, counties have an interest in the information developers can provide them about their developments; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A county may regulate the subdivision and development of land pursuant to this act by adopting a “pre-development ordinance”. The power granted to counties by this act may be exercised in any part or all parts of the county outside a city, except as otherwise provided in G.S. 160A-360, and for purposes of determining each county’s territorial jurisdiction, the power shall be treated as if it were a power authorized by Article 19 of Chapter 160A.

Sec. 2. A pre-development ordinance adopted pursuant to this act shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat before its recordation and in granting or denying approval of a site plan for a development, and may provide for one reviewing agency to hear appeals from decisions rendered by another reviewing agency. The ordinance may require that a plat be prepared, approved, and recorded pursuant to its provisions whenever a subdivision of land takes place, and that a site plan be prepared and approved pursuant to its provisions whenever the development of land takes place. No land-disturbing or construction activity carried out in conjunction with a development or subdivision may be commenced nor may a building permit for work done in conjunction with a development or for a lot in a subdivision be issued until required plans or plats have been submitted to and approved by the appropriate review agency or agencies, as provided by the ordinance. No person who

is the owner or agent of the owner of any land subject to this act may (a) engage in the subdivision of land, or (b) sell or transfer a subdivided lot, or (c) file or record a plat of a subdivision, until the required plat has been submitted to and approved by the appropriate review agency or agencies, as provided by the ordinance, and until this approval is entered in writing on the face of the plat by the county official authorized by the ordinance to do so. The register of deeds may not file or record a plat of a subdivision of land subject to this ordinance that has not been approved in accordance with these provisions, and the clerk of superior court may not order or direct the recording of a plat if the recording would be in conflict with an ordinance adopted under this act.

Sec. 3. The ordinance shall provide that the final required plat or site plan may be approved if and only if the following requirements have been met: (a) the applicant has prepared and submitted to the county any subdivision streets disclosure statement required by G.S. Sec. 136-102.6(f); (b) the county has certified whether or not the land is located on a mountain ridge protected by the Mountain Ridge Protection Act (G.S. 113A-205 et seq.) or any ordinance adopted pursuant to it; (c) the county has approved a soil erosion control plan for the site, if such approval is required by a separate county ordinance, or the North Carolina Department of Natural Resources and Community Development has approved such a plan, if such approval is required by the Sedimentation Pollution Control Act of 1973 (G.S. 113A-50 et seq.), as amended, or regulations adopted pursuant thereto; (d) the district engineer of the Division of Highways of the North Carolina Department of Transportation has certified approval of any proposed street and highway plans, if approval is required pursuant to G.S. 136-102.6(c); (e) if land is to be subdivided and on-site sewage disposal systems involving sub-surface discharge are proposed for lots, the county health department has evaluated under state and county health regulations the general suitability of the entire tract for such systems and/or the suitability of each lot for an individual system serving a single-family residence; (f) if there is proposed in conjunction with the development or subdivision the establishment of, addition to, or change in a public or community sanitary sewage system, or a sanitary sewage system designed to discharge effluent to the land surface or surface waters, the Environmental Management Commission has issued the permit or permits required pursuant to G.S. 143-215.1; (g) if any sewage system proposed for use in conjunction with a development or subdivision is subject to approval by the North Carolina Department of Human Resources pursuant to G.S. 130A, Article 11, under rules adopted by the Commission for Health Services, the Department has approved the plans for such a system; (h) if a dam subject to the Dam Safety Act of 1967 (G.S. 143-215.23 et seq), as amended, is proposed for use in conjunction with a development or subdivision subject to this act, the Environmental Management Commission has approved the construction plans or the work as completed, as provided by the ordinance; (i) the required plats or site plans are prepared in accordance with ordinance requirements, any applicable requirements adopted by the register of deeds governing the recordation of plats or plans, and the provisions of G.S. 47-30; (j) if a public water system (as defined in G.S.

130A-313(10)) is proposed to be constructed or altered in conjunction with a development or subdivision and the plans for it are subject to approval pursuant to G.S. 130A-317 by the North Carolina Department of Human Resources (or any certified local government, commission, authority, or board authorized by the Department to grant such approval), the Department (or certified local body) has approved such plans; and (k) the county has found that the applicant's proposal is in compliance with any other federal, state, or local laws specified in the ordinance.

Sec. 4. The following terms where used in this act shall have the following meanings, except where the context clearly indicates a different meaning:

(a) "Development" means (i) the improvement of a tract of land involving land-disturbing activity or (ii) the improvement of a tract of land of five acres or more for any purpose other than agriculture, forestry, or mining; however, development on land owned or managed by the United States of America or the State of North Carolina or its political subdivisions is not included within this definition and is not subject to the provisions of an ordinance adopted pursuant to this act.

(b) "Land-disturbing activity" means land-disturbing activity as defined in G.S. 113A-52(6) that is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered; however, those land-disturbing activities for which the North Carolina Sedimentation Control Commission is authorized to exercise exclusive regulatory jurisdiction pursuant to G.S. 113A-56(a) are not included within this definition and are not subject to any regulations enacted pursuant to this act.

(c) "Review agency" means one or more of the following: the board of county commissioners; the county planning board; the county planner; a technical review committee comprised of those appointed and/or elected county officials designated in the ordinance.

(d) "Subdivision" means all divisions of a tract or parcel of land; however, each of the following is not included within this definition and is not subject to regulation under this act:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased;
- (2) The division of a tract into lots or parcels each of which is greater than 10 acres, if no public road right-of-way dedication is proposed;
- (3) The division of a tract in common ownership the entire area of which is less than five acres;
- (4) The division of land for the purpose of conveying a single lot or parcel to each tenant in common, all of whom jointly inherited the land by intestacy or by will;
- (5) The division of land into no more than two parcels for the purpose of conveying at least one of the resulting lots to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance;
- (6) The public purchase of strips of land for widening or opening roads or highways;

(7) The division of land pursuant to an order of a court of the General Court of Justice; and

(8) The division of land for cemetery lots or burial plots.

(e) "Transfer" means a passing of title or ownership including a contract for deed or other similar document wherein land is being sold on an installment basis with the purchaser being given possessory rights to the land or lot even though the owner-seller retains title until the purchase price for the land or lot is paid.

Sec. 5. Before adopting or amending a pre-development ordinance authorized by this act, the board of county commissioners shall hold a public hearing on it. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. The board of county commissioners shall not hold the public hearing required by this section until the planning board has been given at least 35 days in which to make a recommendation concerning the proposed ordinance or amendment.

Sec. 6. The provisions of G.S. 153A-123 shall apply to the enforcement of an ordinance adopted pursuant to this act.

Sec. 7. This act shall apply only to Transylvania County.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.B. 1666

CHAPTER 810

AN ACT TO PROHIBIT THE POSSESSION AND SALE OF SPRING-LOADED KNIVES.

The General Assembly of North Carolina enacts:

Section 1. Article 35 of Chapter 14 of the General Statutes of North Carolina is amended by adding a new section G.S. 14-269.6 to read:

"§ 14-269.6. *Possession and sale of spring-loaded projectile knives prohibited.*—(a) On and after October 1, 1986, it shall be unlawful for any person including law enforcement officers of the State, or of any county, city, or town to possess, offer for sale, hold for sale, sell, give, loan, deliver, transport, manufacture or go armed with any spring-loaded projectile knife, a ballistic knife, or any weapon of similar character. Except that it shall be lawful for a law enforcement agency to possess such weapons solely for evidentiary, education or training purposes.

(b) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both."

Sec. 2. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

S.B. 889

CHAPTER 811

AN ACT TO PERMIT THE CITY OF LUMBERTON TO HAVE FIVE MEMBERS ON THE LOCAL ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 18B-700(a) is amended by deleting "three members" and substituting "five members".

Sec. 2. The second sentence of G.S. 18B-700(a) is rewritten to read:
"Two members of the initial board of a newly created ABC system shall be appointed for three-year terms, two members for two-year terms, and one member for a one-year term."

Sec. 3. This act applies to the City of Lumberton only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

S.B. 911

CHAPTER 812

AN ACT TO AMEND THE CHARTER OF THE CITY OF HAMLET IN RICHMOND COUNTY TO EFFECT THE REMOVAL OF CERTAIN LANDS FROM THE CORPORATE LIMITS OF SAID MUNICIPALITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2.1 of Chapter 506 of the Session Laws of 1969 is amended by adding the following at the end:

"(d) The following lands are hereby removed from the Corporate Limits of the City of Hamlet:

BEGINNING at a right-of-way monument in the northeast edge of the right-of-way of U.S. Highway No. 74, said monument being the northernmost monument on the northeast edge of U.S. Highway No. 74 as shown on the Corporate Limits Annexation Map, City of Hamlet, Annexation Area No. 1 as recorded in Plat Book 23, Page 147 of the Richmond County Register of Deeds; and runs thence N. 37-46'-30" E. 694.58 feet to a concrete monument; thence S. 11-18'-37" E. 98.94 feet to a stake; thence S. 27-15'-06" W. 62.96 feet to a stake; thence S. 21-09'-25" E. 41.97 feet to a stake; thence S. 35°-11'-21" E. 65.12 feet to a stake; thence S. 23-33'-28" E. 106.55 feet to a stake; thence S. 35°-48'-42" E. 79.87 feet to a concrete monument; thence S. 53°-44'-08" W. 530.03 feet to a stake in the northeast edge of the right-of-way of U.S. Highway No. 74; thence, as and with the northeast edge of the right-of-way of U.S. Highway No. 74 to the BEGINNING."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

S.B. 935

CHAPTER 813

AN ACT TO INCREASE THE PENALTY FOR PARKING VIOLATIONS THAT ARE COMMITTED IN THE CITY OF GREENVILLE AND ARE ESTABLISHED BY RELYING ON THE PRIMA FACIE RULE OF EVIDENCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160 of the 1983 Session Laws, as amended by Chapter 152 of the 1985 Session Laws, is further amended by rewriting Section 2 of that act to read:

“Sec. 2. This act applies only to the following cities: Greenville, Jacksonville, and Winston-Salem.”

Sec. 2. This act is effective upon ratification and applies to infractions committed on or after that date.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 961

CHAPTER 814

AN ACT TO AMEND, SUBJECT TO THE APPROVAL OF THE ELECTORATE, ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO FINANCE AND REFINANCE HIGHER EDUCATION FACILITIES OWNED BY NONPROFIT CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is hereby amended by adding a new section to read as follows:

“Sec. 11. Higher Education Facilities. Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State or any State entity to issue revenue bonds to finance and refinance the cost of acquiring, constructing, and financing higher education facilities to be operated to serve and benefit the public for any nonprofit private corporation, regardless of any church or religious relationship provided no cost incurred earlier than five years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from any revenues or assets of any such nonprofit private corporation pledged therefor, shall not be secured by a pledge of the full faith and credit of the State or such State entity or deemed to create an indebtedness requiring voter approval of the State or such entity, and, where the title to such facilities is vested in the State or any State entity, may be secured by an agreement which may provide for the conveyance of title to, with or without consideration, such facilities to the nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto.”

Sec. 2. The amendment set forth in Section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November of 1986, which shall be conducted under the laws then governing elections in the State. At said election, each qualified voter

desiring to vote shall be provided a ballot on which shall be printed the following:

- ☐ FOR constitutional amendment to permit the General Assembly to enact general laws to authorize the State, or any State entity to issue revenue bonds to finance or refinance the cost of acquiring, constructing and financing higher education facilities for any nonprofit private corporation, regardless of any church or religious relationship, such bonds to be payable from any revenues or assets of any such nonprofit private corporation pledged therefor.
- ☐ AGAINST constitutional amendment to permit the General Assembly to enact general laws to authorize the State, or any State entity to issue revenue bonds to finance or refinance the cost of acquiring, constructing and financing higher education facilities for any nonprofit private corporation, regardless of any church or religious relationship, such bonds to be payable from any revenues or assets of any such nonprofit private corporation pledged therefor."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1461

CHAPTER 815

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF EDENTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Edenton is revised and consolidated to read:

"THE CHARTER OF THE TOWN OF EDENTON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. *Incorporation.* The Town of Edenton, North Carolina, in Chowan County, and the inhabitants thereof, shall continue to be a

municipal body politic and corporate, under the name of the 'Town of Edenton,' hereinafter at times referred to as the 'Town.'

"Sec. 1.2. *Powers.* The Town shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Edenton specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Sec. 1.3. *Corporate Limits.* The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town, and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made, and copies shall be filed in the offices of the Secretary of State, the Chowan County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. *Mayor and Council.* The Mayor and Council shall be the governing body of the Town.

"Sec. 2.2. *Council; Composition; Terms of Office.* The Council shall be composed of six members elected for staggered terms of four years. One Council member shall be elected by the qualified voters of each of the four wards. Each person so elected shall have resided in the respective ward for a period of not less than 30 days next preceding the date of the election. Two Council members shall be elected by all the qualified voters of the Town.

"Sec. 2.3. *Mayor; Term of Office; Duties.* The Mayor shall be elected by all the qualified voters of the Town for a term of four years; shall be the official head of the Town government and preside at meetings of the Council; shall have the right to vote only when there is an equal division on any question or matter before the Council; and shall exercise the powers and duties conferred by law or as directed by the Council.

"Sec. 2.4. *Mayor Pro Tempore.* The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the other members of the Council.

"Sec. 2.5. *Meetings.* In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Sec. 2.6. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading and proving of Town ordinances and resolutions shall be in accordance with general law. All ordinances and resolutions shall be effective upon adoption unless otherwise provided.

"Sec. 2.7. *Voting Requirements; Quorum.* Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. A majority of the members of the Council, excluding vacancies, shall constitute a quorum.

"Sec. 2.8. *Compensation; Qualifications for Office; Vacancies.* The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by appointment of the Council for the remainder of the unexpired term.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. *Regular Municipal Elections.* Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted and the results determined on a nonpartisan plurality basis as provided in G.S. 163-292.

"Sec. 3.2. *Wards; Revision.* The four wards established for the purpose of elections and their respective boundaries shall be those existing at the time of ratification of this Charter and set forth on the official map of the Town, as required by G.S. 160A-23. The Council may revise ward boundaries as provided in G.S. 160A-23 by adoption of an appropriate ordinance. The Council may make other revisions, including changing the number of wards, by following the procedure set out in G.S. Chapter 160A, Article 5, Part 4, and applicable provisions of State and federal law.

"Sec. 3.3. *Election of Council Members.* The Council members serving on the date of ratification of this Charter shall serve until the expiration of their terms. In the municipal election in 1987 and every four years thereafter, one Council member shall be elected at large, one Council member shall be elected by and from the First Ward and one Council member shall be elected by and from the Second Ward. In the municipal election in 1989 and every four years thereafter, one Council member shall be elected at large, one Council member shall be elected by and from the Third Ward and one Council member shall be elected by and from the Fourth Ward.

"Sec. 3.4. *Election of the Mayor.* The Mayor serving on the date of ratification of this Charter shall serve until the expiration of his or her term. At the municipal election in 1987 and every four years thereafter, there shall be elected a Mayor to serve as provided in Article II.

"Sec. 3.5. *Special Elections and Referendums.* Special elections and referendums may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of Government.* The Town shall operate under the council-manager form of government, in accordance with G.S. Chapter 160A, Article 7, Part 2.

"Sec. 4.2. *Town Manager.* The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter.

"Sec. 4.3. *Town Clerk.* The Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council; to maintain official records

and documents; to give notice of meetings; and to perform such other duties required by law or as the Council may direct.

"Sec. 4.4. *Tax Collector.* The Council shall appoint a Tax Collector to collect all taxes owed to the Town, subject to general law, this Charter and Town ordinances.

"Sec. 4.5. *Town Attorney.* The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Council may direct.

"Sec. 4.6. *Other Administrative Officers and Employees.* The Council may provide for appointment of other officers and employees, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. SPECIAL ASSESSMENT PROVISIONS.

"Part 1. Streets and Sidewalks.

"Sec. 5.1. *Authority to assess for street improvements.* In addition to the authority granted by general law, the Council is authorized to order street improvements and to assess fifty percent of the total costs against abutting property owners in accordance with the provisions of this Article, without the necessity of a petition of property owners.

"Sec. 5.2. *Authority to assess for sidewalk improvements and repairs.* In addition to the authority granted by general law, the Council is authorized to order sidewalk improvements or repairs according to standards and specifications of the Town, and to assess fifty percent of the total costs against abutting property owners, without the necessity of a petition of property owners.

"Sec. 5.3. *Assessment procedure.* In exercising the authority granted by this Article, the Council shall follow the procedure provided by the General Statutes relating to street and sidewalk assessments, except those provisions relating to the petition of property owners.

"Sec. 5.4. *Effect of assessment.* The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of the General Statutes.

"Sec. 5.5. *Exemption of corner lots.* The Council shall have authority to exempt from assessment for street improvements for corner lots one hundred fifty feet of the frontage of any side of a corner lot when street improvements are installed along both sides of such lot, or exemptions may be made as provided in G.S. 160A-219.

"Part 2. Water and Sewer.

"Sec. 5.6. *Authority to levy by alternate methods.* In addition to the authority granted by general law for assessing the costs of water and sewer lines and laterals, the Council is authorized to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or (2) on the basis of the frontage of land upon a public street by an equal rate per foot of such frontage.

"Sec. 5.7. *Average costs.* In lieu of assessing the total cost of a particular project as herein provided, the Council annually between the first days of January and July of each year, may determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost of any portion thereof during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It also may include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this is to distribute more equitably the cost of the installation of water and sewer lines throughout the Town; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefitting his property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way also may be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

"Sec. 5.8. *Subdivisions.* If a lot or parcel of land used for a single-family residential purpose is assessed under this section and the lot or parcel of land is subdivided into additional lots for single-family occupancy, the Council may assess the additional lots or parcels of land into which the original parcel of land is from time to time divided on the basis of the average cost as determined under the provisions of this Part at the time the owner of the additional lot requests the utility service. Such assessment shall be made only after the owner of the newly created lot or lots has requested water or sewer service and an assessment against his property or has paid the amount of the assessment in cash. In the absence of such request or payment, the service shall be withheld from the property. If a lot or parcel of land is used for any purpose other than for single-family occupancy, the Council may assess the lot or parcel of land used for such other purpose in an amount equal to the multiple of the assessment for a single-family lot by the nearest number of times that the area so used is divisible by twenty thousand feet but in no case shall the assessment be less than the assessment which would be made against a single-family dwelling lot.

"Sec. 5.9. *Exemption of corner lots.* The Council shall have authority to exempt from assessment for water and sewer extensions for corner lots one hundred fifty feet of the frontage of any side of a corner lot when water and sewer extensions are installed along both sides of such lot, or exemptions may be made as provided in G.S. 160A-219."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Edenton and to consolidate certain acts concerning the property, affairs and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly

consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs or government of public schools, or acts validating official actions, proceedings, contracts or obligations of any kind.

Sec. 4. All acts in conflict with this act are repealed. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 1013, Session Laws of 1961

Chapter 229, Session Laws of 1963

Chapter 338, Session Laws of 1965

Chapter 557, Session Laws of 1965

Chapter 191, Session Laws of 1967

Chapter 108, Session Laws of 1969

Chapter 381, Session Laws of 1969

Chapter 960, Session Laws of 1969

Chapter 497, Session Laws of 1971

Chapter 789, Session Laws of 1971

Chapter 491, Session Laws of 1975

Chapter 857, Session Laws of 1979

Chapter 321, Session Laws of 1981

Chapter 989, Session Laws of 1983 (1984 Session)

Sec. 5. This act does not repeal or affect the Supplemental Retirement Fund for Firemen established by Chapter 286, Session Laws of 1981, as amended.

Sec. 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 7. All existing ordinances, resolutions and other provisions of the Town of Edenton not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 9. If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed, superseded or recodified, the reference shall be deemed amended to refer to the amended General Statutes, or to the General Statute which most clearly corresponds to the statutory provision which is repealed, superseded or recodified.

Sec. 11. Article 5, Part 4 of G.S. Chapter 160A, shall not apply to the Town of Edenton for a period of two years after the date of ratification of this act.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1471

CHAPTER 816

AN ACT TO CORRECT THE CORPORATE BOUNDARIES OF THE TOWN OF MADISON.

The General Assembly of North Carolina enacts:

Section. 1. The territory described below is included within the corporate boundaries of the Town of Madison in Rockingham County:

Beginning at a culvert on hard surface road leading to Mayo Bridge from Madison, former J. C. Thompson and J. R. Hughes corner in branch; thence N. 76° E. with branch 166' to a stake in another branch; thence S. 40° E. 137' to a stake; thence S. 20 ½° W. 112' to a stake; thence S. 14 ¾° E. 85 ½' to a stake in a ditch; thence N. 30° E. 177' to a stake; thence N. 66° E. 202' to a stake; thence N. 22° E. 282' to a stake; thence N. 24 ¾° W. 311' to a stake; thence N. 4° E. 69' to a stake in J. H. Moore Est. (formerly R. M. Cardwell); thence with said J. H. Moore Est. line N. 86° 20 minutes W. 197' to a stake on hard surface road; thence S. with hard surface road 27 ¾° W. 446.5' to a point; thence along hard surface road in a southerly direction to the point and place of beginning. The above being Lots 3 and 5 in the subdivision of the W. T. Lauten lands, as subdivided and surveyed by S. B. Dameron on April 14 and 15, 1924, totaling approximately 5.04 acres. See Book 241, Page 274.

Sec. 2. The territory described in Section 1 is not within the boundaries of the M & M Fire Protection District.

Sec. 3. Rockingham County shall release or refund the total amount of M & M Fire Protection District taxes levied or collected on the property described in Section 1 for fiscal year 1985-86, and shall not levy such taxes on the property for any subsequent fiscal year.

Sec. 4. As soon as possible after ratification of this act, the Town of Madison shall cause an accurate map showing the current corporate boundaries of the Town to be recorded in the office of the Rockingham County Register of Deeds and filed in the Office of the Secretary of State. The property described in Section 1 shall be identified clearly and labeled "See Chapter 816, Session Laws of 1985 (1986 Session)," with the blank filled in to refer to this act as ratified.

Sec. 5. The purpose of this act is to correct clerical errors of description made in connection with the annexation ordinance adopted by the Town of Madison Board of Aldermen on March 26, 1971, which became effective on June 30, 1971.

Sec. 6. Section 1 of this act is effective retroactively from and after June 30, 1971. Section 2 is effective retroactively from and after December 31, 1984. Sections 3 through 6 are effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1472

CHAPTER 817

AN ACT TO PROVIDE FOR THE USE OF ALL PROPERTY TAX COLLECTION METHODS IN THE COLLECTION OF SPECIAL ASSESSMENTS IN THE COUNTY OF ROCKINGHAM.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 153A-200(c) is deleted and the following substituted: "Assessment liens may be collected as unpaid property taxes, under any of the collection remedies provided by law for unpaid property taxes. Such collection remedies may be begun at any time after 30 days after the due date."

Sec. 2. This act is effective only upon special assessments levied by Rockingham County under Article 9 of Chapter 153A of the General Statutes and is enforceable upon all special assessments duly levied.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1540

CHAPTER 818

AN ACT TO ANNEX PROPERTY WEST OF THE CORPORATE LIMITS OF THE CITY OF GREENSBORO AND TO EXEMPT CERTAIN PROPERTIES OWNED BY THE GREENSBORO-HIGH POINT AIRPORT AUTHORITY AND CERTAIN AREAS IMMEDIATELY ADJACENT THERETO.

The General Assembly of North Carolina enacts:

Section 1. Effective on and after 30 June, 1987, the corporate limits of the City of Greensboro, a municipal corporation in the County of Guilford, shall include the following territory:

Tract 1

BEGINNING at a point in the existing corporate limits at the intersection of the southern margin of Chimney Rock Road (SR 1554) and the western margin of Chimney Rock Court (SR 1694); thence along said southern margin of Chimney Rock Road approximately 1850 feet to a point, said point being the southeast intersection of Chimney Rock Road and Boulder Road (SR 1667); thence in a southwesterly direction approximately 2000 feet along the eastern and southern margin of Boulder Road to a point, said point being a chord distance of 300 feet in a westerly direction from the intersection of the southern margin of Boulder Road and the east line of Craven of Greensboro, Inc.; thence in a southeasterly direction approximately 500 feet to a point in the south line of Craven of Greensboro, Inc., said point being 200 feet in a westerly direction along said south line from Craven, Inc.'s southeast corner; thence in a southeasterly direction approximately 800 feet to a point, said point being the northeast corner of lot 1 of Barker-Frazier Excavating, Inc. subdivision, as recorded in Plat Book 73, Page 304 in the Office of the Register of Deeds of Guilford County, North Carolina; thence South

08°08'00" West 182.50 feet along the east line of said lot 1 to a point in the west line of Martin Marietta Corp.; thence South 33°16'50" West 445.4 feet along the west line of Martin Marietta to a point, said point being the southeast corner of lot 3 of L. B. Gallimore subdivision, as recorded in Plat Book 63, Page 65 in the Office of the Register of Deeds of Guilford County, North Carolina; thence North 85°49'10" West approximately 584 feet along the south line of said lot 3 and the westerly extension of said line (crossing Boulder Road) to a point, said point being the intersection of said extended line and the western margin of Boulder Road; thence in a northerly direction approximately 520 feet along said western margin of Boulder Road to a point, said point being the intersection of said western margin and the centerline of a stream; thence in a westerly direction approximately 450 feet along the meanderings of said stream to a point, said point being the intersection of the centerline of said stream and the southeasterly extension of a portion of the southern boundary of lot 3 of Section 2 of the W. A. McDowell subdivision, as recorded in Plat Book 67, Page 66 in the Office of the Register of Deeds, Guilford County, North Carolina; thence North 29°53'20" West approximately 200 feet along said extension and said portion of the southern boundary of said lot 3 to a point, said point being a common corner of said lot 3 and W. Arnold McDowell; thence South 59°04'45" West 334.03 feet along the south line of said lot 3 to a point in the east line of Charles E. Tester, said point being the southwest corner of said lot 3; thence North 04°38'43" East 160.73 feet along the west line of said lot 3, a common line with Tester, to a point in the eastern margin of Tarrant Road (SR 1552); thence crossing Tarrant Road in a westerly direction approximately 60 feet along a line that is perpendicular to the eastern margin of Tarrant Road, to a point in the western margin of Tarrant Road; thence in a northeasterly direction approximately 1100 feet along said western margin to a point, said point being the southeast corner of Junie Lee Gordon; thence North 83°31' West 273.93 feet along Gordon's south line to a point, said point being Gordon's southwest corner; thence North 18°57' East 108.95 feet along Gordon's west line to a point in the southern boundary of Plantation Farms subdivision, said point being the northwest corner of Gordon; thence in an easterly direction 17.75 feet along the southern boundary of said subdivision to a point, said point being the southwest corner of lot 24E of Plantation Farms subdivision, a plat of said subdivision being recorded in Plat Book 22, Page 84 in the Office of the Register of Deeds, Guilford County, North Carolina; thence North 18°16' West approximately 350 feet along the west line of said lot 24E to a point in the centerline of a stream; thence in a southwesterly direction approximately 550 feet along the meanderings of said stream to a point in the southern boundary of said Plantation Farms subdivision; thence North 87°26' West approximately 1200 feet along said southern boundary to a point, said point being near a stream, said point also being the most southerly corner of lot 12 as shown on a plat of Plantation Farms subdivision as recorded in Plat Book 21, Page 34 in the Office of the Register of Deeds, Guilford County, North Carolina; thence the following bearings and distances along the east line of lot 12, said east line being near a stream: North 43°01'30" East 475.30 feet to a point; North 41°29' East 579.10 feet to a point; North

62°26'30" East 200.0 feet to a point in the southern margin of Chimney Rock Road, said point being the northeast corner of said lot 12; thence in a northeasterly direction approximately 60 feet, crossing Chimney Rock Road, to a point in the northern margin of Chimney Rock Road, said point also being in the centerline of the last mentioned stream; thence in a northeasterly direction approximately 350 feet along the meanderings of said stream to a point, said point being the confluence of two streams; thence in a northwesterly direction approximately 900 feet along the meanderings of a stream to a point in the north line of lot 4 of the last mentioned Plantation Farms subdivision; thence South 87°45'30" East approximately 250 feet along said north line of lot 4 to a point, said point being the northeast corner of lot 4; thence along the eastern boundary of tracts I and II of Colonial Pipeline Co. as described in a deed recorded in Deed Book 2426, Page 748 in the Office of the Register of Deeds, Guilford County, North Carolina, the following bearings and distances: North 48°29'48" West 1121.23 feet to a point; thence North 03°51'15" West 684.10 feet to a point; thence North 52°53'40" West approximately 280 feet to a point in the southern margin of Gallimore Dairy Road (SR 1556); thence in a southwesterly direction approximately 550 feet along said southern margin to a point, said point being the intersection of said southern margin and the west line of said tract I; thence in a northerly direction approximately 65 feet, crossing Gallimore Dairy Road to a point, said point being the intersection of the northern margin of Gallimore Dairy Road and the south line of Petula Associates, Ltd. and Forsyth/Gallimore Partners; thence with the south and southwest lines of Petula Associates, Ltd. and Forsyth/Gallimore Partners, said lines being described in a deed recorded in Deed Book 3361, Page 1093 in the Office of the Register of Deeds of Guilford County, North Carolina, the following bearings and distances: North 87°19'50" West 100.70 feet to a point; thence North 42°22'42" West 283.97 feet to a point; thence North 41°50'10" West 584.72 feet to a point; thence North 42°01'30" West 501.14 feet to a point; thence North 42°02' West 339.27 feet to a point; thence North 46°03'01" West 386.66 feet to a point, said point being Petula Associates and Forsyth/Gallimore Partners' most westerly corner and being E. V. Ferrell, Jr. and J. C. Smith's most southerly corner; thence with the southwest line of Ferrell and Smith North 46°01'15" West 75.19 feet to a point, then continuing with said line North 45°58'50" West 314.51 feet to a point, said point being JLM Development Company's south corner; thence with JLM Development Company's southwest line North 46°02'36" West 215.21 feet to a point in a stream, said point being the west corner of JLM Development Co.; thence in a southwesterly direction 71.45 feet along the meanderings of said stream to a point, said point being the City of Greensboro's northeast corner, a description of said City of Greensboro property being recorded in Deed Book 2359, Pages 456-458 in the Office of the Register of Deeds, Guilford County, North Carolina; thence in a southwesterly direction approximately 230 feet along the meanderings of said stream to a point in the east fork of Deep River, said point being the confluence of Deep River and the last mentioned stream; thence in a northwesterly direction approximately 750 feet along the meanderings of the east fork of Deep River to a point, said point being the southeast

corner of lot 2 of the Greensboro Airport Motel subdivision as recorded in Plat Book 75, Page 48 in the Office of the Register of Deeds, Guilford County, North Carolina; thence the following bearings and distances along the south line of said lot 2 near a stream: South $83^{\circ}49'$ West 160.27 feet to a point; South $66^{\circ}04'30''$ West 212.72 feet to a point; South $70^{\circ}51'26''$ West 217.58 feet to a point in the eastern margin of Regional Road South (SR 1695), said point being the southwest corner of said lot 2; thence crossing Regional Road South and North Carolina Highway Number 68 in a westerly direction approximately 400 feet to a point in the western margin of said North Carolina Highway Number 68, said point also being the intersection of said western margin and the south line of lot 7 of the Gordon Farm subdivision, said lot 7 being shown on a plat recorded in Plat Book 14, Page 18 in the Office of the Register of Deeds, Guilford County, North Carolina; thence along the western margins of North Carolina Highway Number 68 and National Service Road (SR 1883) in a northerly direction approximately 1000 feet to a point, said point being the intersection of a stream and said western margin; thence in a southwesterly direction approximately 1500 feet along the meanderings of said stream to a point on the eastern shoreline of a pond; thence in a westerly direction approximately 320 feet around the northern shoreline of said pond to a point, said point being the most northwesterly point on said shoreline; thence in a northwesterly direction approximately 550 feet to a point, said point being the southwest corner of Forsyth-Airpark Partners; thence the following bearings and distances along the west line of Forsyth-Airpark Partners: North $03^{\circ}14'13''$ East 481.87 feet to a point; thence North $00^{\circ}12'58''$ East 702.82 feet to a point in the southern margin of National Service Road (SR 1883) south of U.S. Interstate 40; thence in a northwesterly direction for a distance of 450 feet along said southern margin to a point; thence in a northeasterly direction approximately 350 feet, crossing U.S. Interstate 40 to a point in the northern margin of McCloud Road (SR 1882), said point being the southwest corner of lot 4 of the Triad Center Corporation subdivision as recorded in Plat Book 76, Page 111 in the Office of the Register of Deeds of Guilford County, North Carolina; thence the following bearings and distances along the western line of said lot 4: South $75^{\circ}56'$ East 196.94 feet to a point; thence North $05^{\circ}05'$ East 553.70 feet to a point, said point being the northwest corner of said lot 4 and the southwest corner of lot 5 of said subdivision; thence North $05^{\circ}05'$ East 52.46 feet along the west line of said lot 5 to a point in the centerline of a creek, said point being the northeast corner of W.T. Anton et al; thence in a northeasterly direction approximately 1100 feet along the meanderings of said creek to a point, said point being the confluence of said creek and the east fork of Deep River; thence in a southeasterly direction approximately 2250 feet along the meanderings of said east fork of Deep River to a point in the north margin of the U.S. Interstate 40 off ramp to Regional Road, said point being located near the centerline of said river, said point also being North $10^{\circ}45'$ East 13.25 feet along the extension of the most easterly line of lot 6 from the most easterly corner of lot 6, said lot 6 being shown on the Friendship Acres, Map 1 subdivision plat recorded in Plat Book 28, Page 6 in the Office of the Register of Deeds, Guilford County, North Carolina; thence along the

southern boundary of G.H. Sharp, said boundary also being the north margin of said Interstate 40 off ramp, the following bearings and distances: South $42^{\circ}42'30''$ East 19.29 feet to a point; thence South $85^{\circ}36'$ East 67.87 feet to a point; thence South $68^{\circ}47'$ East 377.89 feet to a point in the western margin of Regional Road South (SR 1695); thence North $20^{\circ}43'40''$ East 170.76 feet along the western margin of Regional Road South to a point, said point being a common corner of G.H. Sharp and Smith, Stafford Associates; thence along the common line of Smith, Stafford Associates and G. H. Sharp the following bearings and distances: North $53^{\circ}16'20''$ West 263.29 feet to a point; thence North $36^{\circ}43'40''$ East 125 feet to a point; thence North $19^{\circ}29'45''$ West 641.18 feet to a point, said point being Smith, Stafford Associates northwest corner; thence North $24^{\circ}55'30''$ West 266.80 feet to a point, said point being Piedmont Ford Truck Sales, Inc.'s northwest corner, said point being a common corner with G. H. Sharp, said point also being the northwest corner of lot 2 of the Piedmont Ford Truck Sales, Inc. subdivision, recorded in Plat Book 63, Page 119 in the Office of the Register of Deeds of Guilford County, North Carolina; thence in a northeasterly direction 1150.58 feet along the northwest lines of lots 2 and 3 of said subdivision, said lines being near a stream, to a point in the western margin of Regional Road South; thence in a northerly direction approximately 1900 feet along the western margin of Regional Road South to a point, said point being the southwest intersection of Regional Road and U.S. Highway Number 421; thence in a westerly direction approximately 3200 feet along the southern margin of U.S. Highway Number 421 to a point, said point being the intersection of said southern margin of U.S. Highway Number 421 and the southerly extension of a line that is 200 feet west of and all points normal to the new western margin of Burgess Road (SR 2084); thence in a northerly direction approximately 1300 feet along said southerly extension and said line that is 200 feet west of and all points normal to the western margin of Burgess Road to a point on the south shoreline of a pond; thence in a northerly direction approximately 500 feet along the eastern shoreline of said pond to a point, said point being located approximately 180 feet South 45° West of the southeasternmost point on the shoreline of a second pond; thence approximately 180 feet North 45° East to said southeasternmost point of said second pond; thence in a northerly direction approximately 550 feet along the east shoreline of said second pond to a point, said point being the northernmost point of the shoreline of said second pond; thence due east approximately 150 feet to a point in the western margin of Burgess Road; thence in a northerly direction approximately 680 feet along said western margin of said road to a point, said point being the intersection of said western margin and the western extension of the north property line of Kermit G. Phillips, III and Joseph F. Freeman; thence in an easterly direction approximately 799.1 feet along said extension and the north line of Freeman and Phillips and the eastern extension of said north line S $87^{\circ}27'02''$ E to a point in the eastern margin of Lebanon Road (SR 2082); thence in a southeasterly direction approximately 2200 feet along the eastern margin of Lebanon Road to a point, said point being on the straight line projection of the common property line between the Greensboro-High Point Airport Authority and

Ella W. Braxton; thence following said projection and the Greensboro-High Point Airport Authority line, $S00^{\circ}54'W$ approximately 627.3 feet to a point in the north right-of-way of Canoe Road, further described as a common corner of the Greensboro-High Point Airport Authority and Ella W. Braxton; thence running with the north right-of-way of Canoe Road and the projection of said road, $S79^{\circ}58'57"E$ approximately 226.4 feet to a point in the east right-of-way of Regional Road North (formerly known as N. C. Highway 68); thence along said right-of-way line $S01^{\circ}38'10"W$ approximately 485 feet to the intersection of the east right-of-way of Regional Road North and the north right-of-way of a ramp between Regional Road North and U. S. 421; thence following the north right-of-way of said ramp in a southeasterly direction approximately 862 feet to its intersection with U.S. Highway 421; thence along the north right-of-way line of U.S. Highway 421 in an easterly direction approximately 7,382 feet to a point, said point being further described as a common corner of Greensboro-High Point Airport Authority and Tri-City Terminals, Inc. and also being on the existing corporate limits; thence in a southerly direction along the existing corporate limits and the straight line projection of the common property line of Greensboro-High Point Airport Authority and Tri-City Terminals, Inc. across U.S. Highway 421 approximately 150 feet to a point in the centerline of a railroad track; thence in a southeast direction following said railroad track centerline approximately 4350 feet to a point, said point being 1 foot west of and normal to the western right-of-way line of Chimney Rock Road; thence in a southerly direction 1 foot west of and normal to the western right-of-way of said road approximately 3500 feet to a point 1 foot south of and normal to the southern right-of-way of an access ramp for Interstate 40; thence in a northwesterly direction along a line 1 foot south of and normal to said access ramp right-of-way approximately 230 feet to a point; thence in a southerly direction along a line that is 200 feet west of and normal to the western right-of-way line of Chimney Rock Road approximately 1250 feet to a point in the north line of J. Van Lindley Nursery Company; thence with the north line of J. Van Lindley Nursery Company South $90^{\circ}00'$ East approximately 202 feet to a point, said point being 1 foot west of and normal to the western right-of-way line of Chimney Rock Road; thence in a southwesterly direction along a line that is 1 foot west of and normal to the western right-of-way of Chimney Rock Road approximately 250 feet to a point; thence South $45^{\circ}43'01"E$ approximately 61 feet to the point and place of BEGINNING, SAVE AND EXCEPT the property of the Greensboro-High Point Airport Authority described as follows: BEGINNING at a point, said point being a common corner between the Greensboro-High Point Airport Authority and Friendship Industrial Spread, Section 6, a plat of which is recorded in Plat Book 75, Page 28, said point also being in the eastern line of G. H. Sharpe; and running thence $N03^{\circ}30'03"W$ 670.78 feet to a point; thence $N01^{\circ}32'28"E$ 940.80 feet to a point, said point being a common corner between the Greensboro-High Point Airport Authority and Bogart Corporation; thence with the southern line of an unopened private road $S87^{\circ}33'E$ 590.57 feet to a point; thence $S88^{\circ}50'48"E$ 422.18 feet to a point in the centerline of Norfolk Southern

Railroad mainline; thence with the centerline of said mainline S55°06'38"E 1073.50 feet to a point, a common corner between the Greensboro-High Point Airport Authority and O. T. Hunter, Jr., et ux; thence with the line of O.T. Hunter, Jr., et ux, S00°00'58"E 398.15 feet to a point; thence with the northern line of Friendship Industrial Spread, Section 7, a plat of which is recorded in Plat Book 79, Page 99 the following courses and distances: N86°20'58"W 1087.47 feet to a point, N89°27'48"W 134.46 feet to a point, and S46°02'W 913.39 feet to the point of BEGINNING, the foregoing tract of land lying and being in Guilford County, North Carolina.

Tract 2

BEGINNING at a point in the existing corporate limits in the northwest right-of-way of Radar Road at its northern terminus; thence 35 feet in a northeasterly direction along the projection of the northwest margin of Radar Road, said point being further described as 55 feet northwest of and normal to a 16 inch water line; thence continuing along a line 55 feet northwest of and normal to said 16 inch water line 1,915 feet to a point at the northwest intersection of Ballinger Road and Stage Coach Trail; thence in a easterly direction along the north right-of-way line of Ballinger Road approximately 3,660 feet to a common corner of Lelia M. Cummings et al and the Greensboro-High Point Airport Authority; thence following the common property line of Lelia M. Cummings et al and the Greensboro-High Point Airport Authority N48°41'18"E approximately 180 feet to a point in the center of a stream; thence in a southeasterly direction approximately 275 feet along the meanderings of said stream to a point in the existing corporate limits of the City of Greensboro, said point being the confluence of said stream and Horsepen Creek; thence following the existing corporate limits all the following courses and distances: thence along the meanderings of Horsepen Creek in a southwesterly direction approximately 5200 feet to a point in the centerline of Horsepen Creek, said point being Patterson Investment Company's southeast corner; thence North 45°31'12" West 1376.0 feet with the south line of Patterson Investment Company to a point in the southeastern margin of Radar Road; thence North 45°31'12" West approximately 60 feet along the extension of Patterson Investment Company's south line to a point, said point being on the northwest right-of-way line of Radar Road; said point being the point of BEGINNING, the foregoing tract of land lying and being in Guilford County, North Carolina.

Sec. 2. From and after 30 June, 1987, the territory, persons and property within the territory described in Section 1 shall be subject to all laws, taxes, debts, ordinances and regulations of the City of Greensboro and shall be entitled to all other privileges and benefits of the City of Greensboro.

Sec. 3. From and after 30 June, 1987, municipal services shall be rendered to such territory in accordance with the requirements of G.S. 160A-47; and the provisions of G.S. 160A-49.1 governing contracts with rural fire departments and the provisions of G.S. 160A-49.3 governing contracts with private solid waste collection firms shall be applicable to such territory.

Sec. 4. No municipality may annex any of the following described territory in Guilford County, North Carolina pursuant to Article 4A of Chapter 160A of the General Statutes, or pursuant to any other provision of law:

TRACT 1

BEGINNING at a point in the northern right-of-way line of Ballinger Road, said point also being in the common property line between Greensboro-High Point Airport Authority and Lelia M. Cummings, et al; and running thence in a westerly direction along the north right-of-way line of Ballinger Road approximately 3,660 feet to the northwest intersection of Ballinger Road and Stage Coach Trail, said point being 55 feet northwest of and normal to the center of a 16 inch water line; thence continuing in a southwesterly direction along a line that is 55 feet northwest of and normal to the center of said 16 inch water line approximately 1915 feet to a point; thence 35 feet in a southwesterly direction along the projection of the northwest margin of Radar Road to the present terminus of Radar Road, said point being in the existing corporate limit line of the City of Greensboro; thence 1 foot in a northwesterly direction to a point that is 1 foot northwest of and normal to the northwest margin of Radar Road; thence with the existing corporate limits along a line that is 1 foot west of and normal to the west margin of Radar Road approximately 4,812 feet to a point in the south margin of a road (formerly known as Friendly Road), said point being a common corner between the Greensboro-High Point Airport Authority and Tri-City Terminals, Inc.; thence with the Greensboro-High Point Airport Authority line and the existing corporate limit the following courses and distances: S45°11'W 251.39 feet to a point, S44°49'E 1156.34 feet to a point, N34°49'E 285.88 feet to a point, and S67°38'E approximately 121.3 feet to a point 1 foot northwest of and normal to the northwestern right-of-way line of Friendly Road, said point also being in the common property line between the Greensboro-High Point Airport Authority and Tri-City Terminals, Inc.; thence in a southwesterly direction 1 foot northwest of and normal to the northwestern right-of-way line of Friendly Road approximately 1025 feet to a point, said point being in the east line of said Airport property; thence in a southerly direction with said property line S45°11'W approximately 200 feet to a point which is on the northeastern right-of-way line of U. S. Highway 421; thence in a northwesterly direction along the northeastern right-of-way line of U. S. Highway 421 approximately 7,382 feet to the point of intersection with the east right-of-way of a ramp for Regional Road North; thence following the east right-of-way of said ramp in a north and northwesterly direction approximately 862 feet to the point of intersection with the eastern right-of-way line of Regional Road North (formerly known as N.C. Highway 68); thence in a northerly direction along the eastern right-of-way line of Regional Road North N01°38'10"E approximately 485 feet to a point; thence in a westerly direction crossing Regional Road North and running with the northern right-of-way line of Canoe Road N79°58'57"W approximately 226.4 feet to a point in the common property line between the Greensboro-High Point Airport Authority and Ella W.

Braxton; thence with the Greensboro-High Point Airport Authority line $N00^{\circ}54'E$ approximately 627.3 feet to a point on the northeast right-of-way line of Lebanon Road; thence in a northwesterly direction along the northeast right-of-way line of Lebanon Road approximately 2,200 feet to a point, said point being the point of intersection with the straight line projection of the common property line between the Greensboro-High Point Airport Authority and Kermit G. Phillips, II, et al; thence crossing Lebanon Road and running with the Greensboro-High Point Airport Authority line $N87^{\circ}27'02"W$ 739.1 feet to a point on the eastern right-of-way line of Burgess Road; thence in a northerly direction along the eastern right-of-way line of Burgess Road approximately 270.3 feet to a point, said point being the point of intersection with the straight line projection of the common property line between the Greensboro-High Point Airport Authority and C. W. Irvin, Jr., et al; thence crossing Burgess Road and running with the Greensboro-High Point Airport Authority line $N54^{\circ}37'50"W$ approximately 1,166 feet to a point in the eastern right-of-way line of N.C. Highway 68; thence along the eastern right-of-way line of N.C. Highway 68 and the southern right-of-way line of Airport Parkway approximately 4,486 feet to a point on the western right-of-way line of Regional Road North; thence in a northerly direction crossing Airport Parkway approximately 333.5 feet to a point being the point of intersection of the western right-of-way line of Regional Road North and the northern right-of-way line of Airport Parkway; thence in a northwesterly direction along the northern right-of-way line of Airport Parkway approximately 619 feet to a point; thence with a line parallel to the centerline of Runway 5/23, $N46^{\circ}02'E$ approximately 936.3 feet crossing Regional Road North to a point on the eastern right-of-way line of Regional Road North, said point being in the common property line between Greensboro-High Point Airport Authority and Simon Investments, Inc.; thence in a northerly direction along the eastern right-of-way line of Regional Road North approximately 590 feet to a point; thence with a line parallel to the centerline of Runway 5/23, $N46^{\circ}02'E$ approximately 1,382 feet to a point in the southern right-of-way line of Bentley Road, said point also being the common corner between lots H and I of Ethel Tucker Subdivision, a plat of which is recorded in Plat Book 20, page 94; thence crossing Bentley Road $N34^{\circ}19'40"E$ approximately 1,652.82 feet to a point, said point being the northwest corner of the D. E. Leonard Property; thence with the Greensboro-High Point Airport Authority line the following courses and distances: $N06^{\circ}38'21"W$ 792.54 feet to a point, $S87^{\circ}43'40"E$ 289.66 feet to a point, and $S87^{\circ}48'29"E$ 734.52 feet to a common corner between the Greensboro-High Point Airport Authority and Occie P. Stafford in the western line of Ernest R. Caine, et al; thence $N32^{\circ}42'E$ approximately 1,360.55 feet, crossing Caindale Drive, to a common corner between the Greensboro-High Point Airport Authority and Cain Family Trust in the southern line of William P. Pegram, et ux; thence with the Greensboro-High Point Airport Authority line the following courses and distances: $N89^{\circ}56'08"E$ 869.95 feet to a point, $S88^{\circ}56'57"E$ 812.38 feet to a point, and $N43^{\circ}33'21"E$ 150.27 feet to a common corner between the Greensboro-High Point Airport Authority and Ralph R. Nelson, et ux, near

the southeast right-of-way line of Mountain View Road; thence along or near said right-of-way line the following courses and distances: N43°34'46"E 144.98 feet to a point, N31°11'46"E 350.34 feet to a point, N25°55'46"E 589.6 feet to a point, and N45°04'46"E 143.3 feet to the point of intersection of the southeastern right-of-way line of Mountain View Road with the southwestern right-of-way line of Old Oak Ridge Road; thence crossing Old Oak Ridge Road N51°27'50"E approximately 1,218.3 feet to a common corner between the Greensboro-High Point Airport Authority and William M. Duncan, Jr.; thence with the line of the Greensboro-High Point Airport Authority the following courses and distances: S49°43'E 353.99 feet to a point, S34°48'40"E 131.50 feet to a point, N25°21'20"E 148.5 feet to a point, and S54°32'17"E 319.58 feet to a common corner between the Greensboro-High Point Airport Authority, William M. Duncan, Jr., and Julius Dees, Jr.; thence with the line of William M. Duncan, Jr. the following courses and distances: S82°32'20"E 198.0 feet to a point and N67°57'43"E 110.94 feet to a point; thence S36°17'E approximately 135 feet to a point in the center of a creek; thence in a southerly direction along the centerline of said creek approximately 2281 feet to a point in the northern right-of-way line of Old Oak Ridge Road; thence in a southeasterly direction along the northern right-of-way line of Old Oak Ridge Road approximately 2,980 feet to a point in the common property line between the Greensboro-High Point Airport Authority and Ruth F. Whitaker; thence with the line of the Greensboro-High Point Airport Authority the following courses and distances: N14°18'36"E approximately 615 feet to a point, S87°25'06"W 75.0 feet to a point, N14°18'36"E 247.48 feet to a point, S81°35'24"E 569.47 feet to a point, S04°12'36"W 206.42 feet to a point, and S76°54'24"E approximately 128.3 feet, crossing Inman Road, to a point on the eastern right-of-way line of Inman Road; thence in a northeasterly direction along the eastern right-of-way line of Inman Road approximately 4,130 feet to a point in the common property line between Bernie Lee Hunter and Wade Bergman recorded in Plat Book 61, page 123; thence along said line S39°43'34"E approximately 737.1 feet to a common corner between Bernie Lee Hunter and Wade Bergman in the northwestern line of J. Norman Hunter, et al; thence with the line of J. Norman Hunter, et al the following courses and distances: N42°38'05"E 135.65 feet to a point, N42°22'53"E 174.78 feet to a point, and N19°18'46"E approximately 391.6 feet to a point on the southern right-of-way line of Fleming Road, said point also being in the common property line between J. Norman Hunter, et al and Lot #2 of Raleigh Ball and wife recorded in Plat Book 72, page 23; thence in a southeasterly direction along the southern right-of-way line of Fleming Road approximately 1,387 feet to a point in the common property line between Hubert R. Thomas, et ux and Rebecca J. Miller; thence along Hubert R. Thomas, et ux the following courses and distances: S39°34'W 1008.58 feet to a point and S85°54'W 82.5 feet to a point in the center of a branch; thence along the center of said branch approximately 764.4 feet to a common corner between Marassett Limited Partnership and Hubert R. Thomas, et ux; thence S46°51'20"E 197.91 feet to a common corner between Marassett Limited Partnership and Jimmy D. Ridge, et ux; thence

S44°07'40"W 857.44 feet to a common corner between B. Ross Angel and Hubert R. Thomas, et ux; thence S59°08'50"W approximately 735.06 feet to a point on the northwest side of Tamokee Drive; thence crossing Tamokee Drive and with the northeastern line of Lot #4 of Chestnut Hill, Section B, a plat which is recorded in Plat Book 51, page 75, S41°04'E approximately 397.2 feet to a common corner between the Greensboro-High Point Airport Authority and Hubert R. Thomas, et ux; thence with the line of Hubert R. Thomas, et ux the following courses and distances: S46°31'40"W approximately 578.3 feet to a point and S39°10'E approximately 1107.1 feet to a common corner between Greensboro-High Point Airport Authority and Arappco, Inc.; thence with the line of Arappco and crossing Old Oak Ridge Road and through the property of Elivo R. Lackey S53°39'19"W approximately 2514.35 feet to a point in the common property line between the Greensboro-High Point Airport Authority and Elivo R. Lackey; thence with the line of the Greensboro-High Point Airport Authority the following courses and distances: S15°20'02"E approximately 382.83 feet to a point, S76°50'58"W 157.29 feet to a point, S00°38'42"E 806.5 feet to a point, S33°14'52"E 297.00 feet to a point, S04°26'28"W 744.20 feet to a point, and S48°41'18"W approximately 281 feet to the point of BEGINNING, the foregoing tract of land lying and being in Guilford County, North Carolina.

TRACT 2

BEGINNING at a point, said point being a common corner between the Greensboro-High Point Airport Authority and Friendship Industrial Spread, Section 6, a plat of which is recorded in Plat Book 75, Page 28, said point also being in the eastern line of G. H. Sharpe; and running thence N03°30'03"W 670.78 feet to a point; thence N01°32'28"E 940.80 feet to a point, said point being a common corner between the Greensboro-High Point Airport Authority and Bogart Corporation; thence with the southern line of an unopened private road S87°33'E 590.57 feet to a point; thence S88°50'48"E 422.18 feet to a point in the centerline of Norfolk Southern Railroad mainline; thence with the centerline of said mainline S55°06'38"E 1073.50 feet to a point, a common corner between the Greensboro-High Point Airport Authority and O. T. Hunter, Jr., et ux; thence with the line of O. T. Hunter, Jr., et ux, S00°00'58"E 398.15 feet to a point; thence with the northern line of Friendship Industrial Spread, Section 7, a plat of which is recorded in Plat Book 79, Page 99 the following courses and distances: N86°20'58"W 1087.47 feet to a point, N89°27'48"W 134.46 feet to a point, and S46°02'W 913.39 feet to the point of BEGINNING, the foregoing tract of land lying and being in Guilford County, North Carolina.

Sec. 5. The boundary of the area described in Section 4 of this act shall be considered "municipal boundary" of the City of Greensboro for the purposes of Article 4A, Part 3, of Chapter 160A of the General Statutes with respect to future annexations by the City of Greensboro.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1447

CHAPTER 819

AN ACT TO PROVIDE A MOTION PICTURE LICENSE TAX EXEMPTION FOR NONPROFIT CENTERS FOR THE PERFORMING AND VISUAL ARTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-37 is amended by adding a new subsection to read:

“(e1) Motion picture shows promoted and managed by a qualifying corporation that operates a center for the performing and visual arts are exempt from the license tax imposed under this section if the motion pictures are shown at the center and if the showing of motion pictures is not the primary purpose of the center. As used in this subsection, ‘qualifying corporation’ and ‘center for the performing and visual arts’ have the same meaning as in G.S. 105-37.1(a).”

Sec. 2. G.S. 105-37(f) is amended by adding a new sentence at the end of that subsection to read:

“Cities and towns may not levy a license tax on a business described in subsection (e1).”

Sec. 3. The second sentence of the next to last paragraph of G.S. 105-37.1(a) is amended by deleting the phrase “as defined in G.S. 105-130.2(1)”.

Sec. 4. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1449

CHAPTER 820

AN ACT TO ELIMINATE THE REQUIREMENT THAT AN OFFICER OF A CORPORATION SIGN AN ESTIMATED INCOME TAX RETURN FILED BY THE CORPORATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.42 is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1451

CHAPTER 821

AN ACT CLARIFYING WHEN A GIFT TAX RETURN MUST BE FILED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-197 is rewritten to read:

“§ 105-197. *When return required; due date of return.*—Anyone who, during the calendar year, gives to a donee a gift of a future interest or one or more gifts whose total value exceeds the amount of the annual exclusion set in G.S. 105-188(d) shall file a gift tax return, under oath or affirmation, with the Secretary of Revenue on a form prescribed by the

Secretary. A return is due on or before April 15th following the end of the calendar year."

Sec. 2. This act is effective upon ratification and applies to returns filed for the 1986 calendar year and thereafter.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1467

CHAPTER 822

AN ACT TO ADJUST THE INHERITANCE TAX FILING THRESHOLD IN ACCORDANCE WITH INCREASES IN THE CLASS A INHERITANCE TAX CREDIT, AND TO MAKE CONFORMING CHANGES TO INHERITANCE TAX STATUTES NECESSITATED BY EXCLUDING TRANSFERS TO THE SURVIVING SPOUSE FROM TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-22 is amended by rewriting the second sentence of that section to read:

"The clerk shall make no report of a death if no inheritance tax return is required to be filed for the decedent's estate under G.S. 105-23 because the estate meets the requirements of subsection (b) of that section."

Sec. 2. G.S. 105-23 is amended by deleting the last paragraph of that section, designating the remainder of that section as subsection (a) with the heading "Return Required.", and adding a new subsection to read:

"(b) Exception. An inheritance tax return is not required to be filed for an estate (i) whose beneficiaries are all either Class A beneficiaries, as described in G.S. 105-4(a), or the surviving spouse, and (ii) whose gross value, including the value of transfers over which the decedent retained an interest and the value of gifts made within three years before the decedent's death, as provided in G.S. 105-2(3), is less than the amount specified in the following table:

Estates of Decedents Dying

<i>On or After</i>	<i>Gross Value of Estates</i>
July 1, 1985	\$100,000
August 1, 1985.....	75,000
July 1, 1986	150,000
January 1, 1987.....	250,000."

Sec. 3. G.S. 28A-21.2(a) is amended by rewriting the second sentence of that section to read:

"If no inheritance tax return was required to be filed for the estate under G.S. 105-23 because the estate met the requirements of subsection (b) of that section, the personal representative or collector shall so certify in the final account filed with the clerk of superior court."

Sec. 4. G.S. 105-24 is amended by deleting the second sentence of the second paragraph of that section and by adding a new sentence at the end of the second paragraph of that section to read:

"If the person entitled to funds in an account is the surviving spouse and the account is a joint account of the surviving spouse and the decedent

with right of survivorship, no tax waiver is required from the Secretary of Revenue to release the funds in the account.”

Sec. 5. This act shall become effective July 1, 1986, and shall apply to the estates of decedents dying on or after that date.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 2080

CHAPTER 823

AN ACT TO AMEND THE STATE REFUNDING BOND ACT, THE SAME BEING ARTICLE 3 OF CHAPTER 142 OF THE GENERAL STATUTES, G.S. 142-20 TO 142-29, INCLUSIVE, BY SUBSTITUTING A REVISED ARTICLE 3 THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 142 of the General Statutes, known as the State Refunding Bond Act, is rewritten to read:

“Article 3.

“Refunding Bonds.

“§ 142-20. *Title of Article.*—This Article may be known and cited as the ‘State Refunding Bond Act.’

“§ 142-21. *Definitions.*—The words and phrases defined in this section shall have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

(1) ‘authorized investments’ means

- a. direct obligations of the United States government,
- b. obligations the principal of and the interest on which are guaranteed by the United States government,
- c. evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in a. and b. above, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian,
- d. obligations of state or local government municipal bond issuers, provision for the payment of the principal of and interest on which shall have been made by deposit with a trustee or escrow agent of obligations described in a., b. or c. above, the maturing principal of and interest on which, when due and payable, shall provide sufficient money with any other money held in trust for such purpose to pay the principal of, premium, if any, and interest on such obligations of state or local government municipal bond issuers, and which are rated in the highest rating by Standard & Poor’s Corporation and Moody’s Investors Service, Inc.,
- e. obligations of state or local government municipal bond issuers, the principal of and interest on which, when due and payable, have been insured by a bond insurance company which is rated in the highest rating category by Standard & Poor’s Corporation and Moody’s Investors Service, Inc.,

- f. full faith and credit obligations of state or local government bond issuers which are rated in the highest rating category by Standard & Poor's Corporation and Moody's Investors Service, Inc., and
- g. any obligations or investments in which the State Treasurer is authorized, at the time of such investment, to invest funds of the State.

(2) 'bond documentation' means any resolution, order, trust agreement, trust indenture or other document authorizing the issuance of and securing any outstanding obligations.

(3) 'bonds' means any bonds issued under the provisions of this Article.

(4) 'credit facility' means an agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution providing for prompt payment of all or any part of the principal (whether at maturity, presentment for purchase, redemption or acceleration), redemption premium, if any, and interest on any refunding obligations payable on demand or tender by the owner issued in accordance with this Article, in consideration of the State agreeing to repay the provider of such credit facility in accordance with terms and provisions of such agreement, provided, that any such agreement shall provide that the obligation of the State thereunder shall have only such sources of payment as are permitted for the payment of refunding obligations issued under this Article.

(5) 'notes' means any bond anticipation notes or notes issued under the provisions of this Article.

(6) 'outstanding obligations' means any outstanding bonds, bond anticipation notes or notes of the State, whether now outstanding or hereafter issued, the payment of the principal of and the interest on which are secured by a pledge of the full faith, credit and taxing power of the State and which may also be secured, as and to the extent provided in applicable bond documentation, by additional security.

(7) 'par formula' shall mean any provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any refunding obligations so that the purchase price of such refunding obligations in the open market would be as close to par as possible.

(8) 'refunding obligations' means any notes or bonds issued under the provisions of this Article.

"§ 142-22. *Purpose.*—The purpose of this Article is to provide statutory procedures or to supplement existing procedures for the issuance of refunding obligations.

"§ 142-23. *Powers.*—In addition to the powers it may now or hereafter have, the State shall have the following powers, subject to the provisions of this Article and applicable bond documentation:

(1) to borrow money and issue one or more series of refunding obligations for the purpose of refunding all or any part of any series or combination of series of outstanding obligations including, without limitation, the payment of any redemption premium thereon and any

interest accrued or to accrue to the date of redemption or maturity or maturities of such outstanding obligations;

(2) to apply the proceeds of refunding obligations

- a. to the payment and retirement of outstanding obligations by direct application to such payment and retirement,
- b. to the payment and retirement of outstanding obligations, whether by redemption or in accordance with their terms, by the deposit in trust of such proceeds,
- c. to the payment of any expenses incurred in connection with such refunding, including the expense of any credit facility employed in connection with such refunding obligations, including, without limitation, bond insurance policies, letters of credit and lines of credit, and
- d. for such other uses not inconsistent with any such refunding,

(3) to issue refunding obligations in combination with any other bonds, bond anticipation notes, notes or financial obligations issued by the State;

(4) to issue refunding obligations bearing interest at rates lower, the same as or higher than and having maturities shorter, the same as or longer than the outstanding obligations being refunded;

(5) to issue one series of refunding obligations to refund one or more series of outstanding obligations;

(6) to issue refunding obligations in exchange for outstanding obligations;

(7) to apply to any purpose consistent with any refunding, including the funding of an escrow fund or account to be used for the payment or redemption of any outstanding obligations, moneys made available as a consequence of such refunding, including, without limitation, any moneys then on deposit in debt service reserve funds, principal accounts, interest accounts and sinking fund accounts in respect of the outstanding obligations being refunded and, subject to the approval of the Council of State, any moneys appropriated by the General Assembly for the payment of principal of or interest on the outstanding obligations being refunded; and

(8) to invest any moneys, including any moneys held in trust, in authorized investments.

“§ 142-24. *Authorization of Refunding Obligations.*—By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell, from time to time, refunding obligations for the purpose of refunding outstanding obligations as and to the extent authorized by this Article. The principal amount of any such refunding obligations shall not exceed the principal amount of outstanding obligations to be refunded.

Refunding obligations issued pursuant to the provisions of this Article shall not be subject to limitations imposed by any other law including, without limitation, the other Articles of this Chapter.

“§ 142-25. *Sale of Refunding Obligations and Provisions Thereof.*—(a) The bonds shall bear such date or dates, shall be serial or term bonds, shall mature in such amounts and at such times, not exceeding 40 years from their date or dates, and shall bear interest at such rate or rates, which may vary from time to time as hereinafter authorized, and which may be represented, in part, by evidences of additional interest, and the

bonds may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices and under such terms and conditions, all as may be fixed by the State Treasurer with the consent of the Council of State.

(b) The bonds shall be signed on behalf of the State by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer or shall bear his facsimile signature; and shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and interest coupons, if any, shall bear a facsimile of the signature of the State Treasurer. If the bonds shall bear the facsimile signatures of the Governor and the State Treasurer, the bonds shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on any bonds or coupons (if any) cease to be such officer before the delivery of the bonds, such signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery and any bond or coupon may bear the facsimile signatures of such persons who at the actual time of the execution of such bond or coupon shall be the proper officers to sign any bond or coupon although at the date of such bond or coupon such persons may not have been such officers. The form and denomination of the bonds and any coupons, including the provisions with respect to registration of the bonds, shall be as the State Treasurer may determine in conformity with this Article; provided, however, that nothing in this Article shall prohibit the State Treasurer from proceeding, with respect to the issuance and form of the bonds, under the provisions of the Registered Public Obligations Act as well as this Article.

(c) Subject to determination by the Council of State as to the manner in which the bonds shall be offered for sale, whether at public or private sale and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell the bonds, at one time or from time to time, at a price equal to, greater than or less than the face amount of the bonds as the State Treasurer may determine to be in the best interests of the State.

All expenses incurred in the preparation, sale and issuance of the refunding obligations shall be paid by the State Treasurer from the proceeds of any such refunding obligations or any other available moneys.

(d)(1) By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money at such rate or rates of interest as the State Treasurer may determine to be in the best interests of the State, which may vary from time to time as hereinafter authorized, and to execute and issue bond anticipation notes or notes of the State for the same, but only in the following circumstances and under the following conditions:

- a. for anticipating the sale of any bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of such bonds;

- b. for the payment of interest upon or any installment of principal of any of the bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay the interest or installment of principal as they respectively become due; or
- c. for the renewal of any loan evidenced by bond anticipation notes or notes herein authorized.

(2) Funds derived from the sale of bonds may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of such bonds.

Nothing in this Article shall be construed as a limitation on the duration of any deposit in trust for the retirement of outstanding obligations which shall not have matured and which shall not be then redeemable or, if then redeemable, shall not have been called for redemption.

(e) Coupons (if any) and any evidences of additional interest appertaining to bonds and notes shall, after the maturity of such coupons or evidences of additional indebtedness, be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatever due the State.

(f) All refunding obligations, coupons (if any) and any evidences of additional interest appertaining thereto, and their transfer (including any profit made on the sale thereof), shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, including inheritance and gift taxes, and the interest on the refunding obligations shall not be subject to taxation as to income, nor shall the refunding obligations or coupons (if any) or evidences of additional indebtedness be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

(g) Refunding obligations, coupons (if any) and any evidences of additional indebtedness are hereby made securities in which all public officers, agencies and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, building and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such refunding obligations, coupons (if any) and any evidences of additional indebtedness are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(h) The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on refunding obligations, coupons (if any) and any evidences of additional indebtedness to the same extent as pledged to the outstanding obligations being

refunded. To the extent additional security has been pledged to outstanding obligations, such additional security may, at the discretion of the State, be continued and similarly pledged to the appropriate refunding obligations, coupons (if any) and any evidences of additional indebtedness.

“§ 142-26. *Additional Refunding Obligation Provisions.*—In fixing the details of refunding obligations, the State Treasurer may provide that any of the refunding obligations:

(1) may be made payable from time to time on demand or tender for purchase by the owner thereof provided a credit facility supports such refunding obligations, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the refunding obligations at a reasonable interest cost to the State;

(2) may be additionally supported by a credit facility;

(3) may be made subject to redemption prior to maturity with such variations as may be permitted in connection with a par formula;

(4) may bear interest at a rate or rates that may vary as permitted pursuant to a par formula and for such period or periods of time, all as may be provided in the proceedings providing for the issuance of such refunding obligations; and

(5) may be made the subject of a remarketing agreement whereby an attempt is made to remarket the refunding obligations to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount repayable by the State under an agreement is in excess of the aggregate principal amount of refunding obligations secured by the related credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued refunding obligations during the term of such agreement shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.”

Sec. 2. Section 1 of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby by the State and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds, bond anticipation notes and notes under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, bond anticipation notes and notes of the State.

Sec. 3. Nothing in this act shall be construed to impair the obligation of any bond, bond anticipation note, note or coupon issued by the State under the provisions of Article 3 of Chapter 142 of the General Statutes and outstanding on the effective date of this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1986.

H.B. 1428

CHAPTER 824

AN ACT TO ALLOW THE GRAHAM COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY AND GRAHAM COUNTY TO CONVEY THE GOLF COURSE PROPERTY AT PRIVATE SALE, AND TO VALIDATE A MORTGAGE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes or the provisions of any local act, the Graham County Industrial Authority and Graham County may convey at privately negotiated sale the golf course property to the Tallulah Valley Golf Course and Country Club, Inc., a nonprofit corporation.

Sec. 2. The deed of trust from the Graham County Industrial Authority to First Union National Bank as to the golf course property is validated, notwithstanding the lack of statutory authority of the grantor to execute such deed of trust.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1446

CHAPTER 825

AN ACT PROVIDING THAT A MULTISTATE CORPORATION THAT RECEIVES AN INCOME TAX CREDIT FOR PROPERTY TAXES PAID TO A GOVERNMENTAL UNIT IN THIS STATE MUST ADD THE TOTAL AMOUNT OF THE CREDIT TO ITS STATE TAXABLE INCOME AND MAY NOT APPLY AN APPORTIONMENT FACTOR TO THE CREDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(a)(10) is amended by adding a new sentence at the end of that subdivision to read:

“A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to this credit the apportionment factor used by it in determining the amount of its apportioned income.”

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1452

CHAPTER 826

AN ACT MAKING TECHNICAL AMENDMENTS TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-33(d) is amended by deleting from the first sentence of that subsection the phrase "105-56," and the reference "105-59".

Sec. 2. G.S. 105-33(i) is rewritten to read:

"(i) The tax collector of a county or city shall issue licenses required under this Article by the governing body of the county or city and shall collect the taxes due for these licenses."

Sec. 3. G.S. 105-89(c)(3) is amended by deleting the phrase "dealers to four-wheel" and substituting the phrase "dealers in four-wheel".

Sec. 4. G.S. 105-125 is amended by deleting from the last sentence of the first paragraph of that section the phrase "Internal Revenue Code referred to in G.S. 105-130.3" and substituting the word "Code".

Sec. 5. G.S. 105-130.11 is amended by deleting the phrase "Internal Revenue Code referred to in G.S. 105-130.3" each time it appears in that section and substituting the word "Code".

Sec. 6. G.S. 105-122(d) is amended by changing the colon in the second sentence of that subsection to a period and deleting the remainder of that sentence.

Sec. 7. G.S. 105-144.2(i) is amended by deleting the reference "913(j)(1)(B)" and substituting the reference "911(d)(3)".

Sec. 8. G.S. 105-147(13)c. is repealed.

Sec. 9. G.S. 105-163.1A is amended by deleting the word "secretary" and substituting the word "Secretary".

Sec. 10. G.S. 105-446.3(b) is amended by deleting the reference "20-87(3)" and substituting the reference "20-87(1)".

Sec. 11. G.S. 105-449.22(b) and G.S. 105-449.42A(b) are amended by deleting the word "secretary" each time it appears in those subsections and substituting the word "Secretary".

Sec. 12. G.S. 105-449.2(2) is amended by deleting the words "and licensed".

Sec. 13. Chapter 449 of the 1985 Session Laws is amended by deleting the reference "G.S. 105-164.3(4)" in subdivision (a)(1) of Section 1 of that act and substituting the reference "G.S. 105-164.4(3)".

Sec. 14. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1465

CHAPTER 827

AN ACT TO ALLOW RANDOLPH COUNTY TO ESTABLISH VOTING PRECINCTS WITHOUT REGARD TO TOWNSHIP BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 225, Session Laws of 1983 is amended by adding immediately after "Cabarrus", the word " , Randolph,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1469

CHAPTER 828

AN ACT TO AUTHORIZE THE TOWN OF HIGHLANDS TO ADOPT AND ENACT ORDINANCES REGULATING THE REMOVAL, REPLACEMENT, AND PRESERVATION OF TREES WITHIN THE TOWN OF HIGHLANDS.

The General Assembly of North Carolina enacts:

Section 1. The Town of Highlands may adopt ordinances, only after holding public hearings, to regulate the removal of trees from public and commercially zoned private property within the Town of Highlands in order to preserve, protect, and enhance one of the most valuable natural resources of the community and to protect the health, safety, and welfare of its citizens.

Sec. 2. This act applies only to the Town of Highlands.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1470

CHAPTER 829

AN ACT TO PERMIT THE CITY OF BURLINGTON TO CONVEY AT PRIVATE SALE TO THE GALLERY PLAYERS, INCORPORATED, THE PARAMOUNT THEATRE AND CERTAIN ADJACENT PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Burlington may convey at private sale with or without monetary consideration to The Gallery Players, Incorporated, any or all of its right, title, and interest to the following described property:

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining the lands of Spring Street, Sam P. Moorefield, Glen W. Anderson and City of Burlington Redevelopment Commission and being more particularly described as follows:

BEGINNING at a point in the northwest right-of-way line of Spring Street, said stake being a corner with Sam P. Moorefield lying North 53

deg. 24' East 79.25' from the intersection of the northwest right-of-way line of Spring Street and the northeast right-of-way line of Front Street and running thence with the line of Sam P. Moorefield and Glen W. Anderson North 36 deg. 36' West 52.00' to a point in the line of City of Burlington Redevelopment Commission; thence with the City of Burlington Redevelopment Commission North 53 deg. 24' East 63.75' to a point, said point being a new corner with the City of Burlington Redevelopment Commission; thence a new line with the City of Burlington Redevelopment Commission South 36 deg. 36' East 52.00' to a point in the northwest right-of-way line of Spring Street; thence with Spring Street South 53 deg. 24' West 63.75' to the beginning and continuing 3,315 square feet more or less.

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining the lands of Front Street, June S. Harris, City of Burlington Redevelopment Commission and Glen W. Anderson and being more particularly described as follows:

BEGINNING at a corner with June S. Harris in the northeast right-of-way line of Front Street, said corner lying South 36 deg. 36' East 106.5' from the intersection of the northeast right-of-way line of Front Street and the southeast right-of-way line of Main Street and running thence from said beginning point with the line of June S. Harris and City of Burlington Redevelopment Commission North 53 deg. 24' East 143.00' to a point, said point being a new corner with City of Burlington Redevelopment Commission; thence a new line with City of Burlington Redevelopment Commission South-36 deg. 36' East 41.5' to a point, another new corner with the City of Burlington Redevelopment Commission; thence with the City of Burlington Redevelopment Commission and Glen W. Anderson South 53 deg. 24' West 143.00' to a corner with Glen W. Anderson in the northeast right-of-way line of Front Street; thence with Front Street South 36 deg. 36' East 41.5' to the beginning and containing 5,935 square feet more or less.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1481

CHAPTER 830

AN ACT TO ALLOW DAVIE COUNTY ORDINANCES REGULATING WASTE DISPOSAL TO APPLY COUNTYWIDE, AND TO AUTHORIZE DAVIE COUNTY TO ENTER INTO LONG TERM CONTRACTS FOR DISPOSAL OF SOLID WASTE.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 63, Session Laws of 1985, is amended by adding the following immediately before the period at the end “, except that Sections 1 and 2 of this act also apply to Davie County”.

Sec. 2. G.S. 153A-299.6 is amended by adding immediately after the words “Craven County,” the words “Davie County,”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1520**CHAPTER 831**

**AN ACT TO VALIDATE LOCAL IMPROVEMENT ASSESSMENTS
HERETOFORE LEVIED AND ASSESSED BY THE TOWN COUNCIL
OF THE TOWN OF TARBORO.**

The General Assembly of North Carolina enacts:

Section 1. All proceedings of the Town Council of the Town of Tarboro and all work performed relative to local improvements, including street paving, sidewalk construction, water and sanitary sewer construction, including water and sanitary sewer mains, lines and laterals, and all work incidental to such local improvements and the assessments levied and assessed therefor are hereby in all respects approved and validated.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1522**CHAPTER 832**

**AN ACT TO PROVIDE FOR FOUR-YEAR TERMS FOR THE MAYOR
AND BOARD OF COMMISSIONERS OF THE TOWN OF FALKLAND.**

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 1059, Session Laws of 1947 is repealed.

Sec. 2. Section 3 of Chapter 1059, Session Laws of 1947 is rewritten to read:

"Sec. 3. In 1987 and quadrennially thereafter, a Mayor and three commissioners shall be elected in the Town of Falkland for four-year terms. The elections shall be conducted in accordance with Chapter 163 of the General Statutes, and the results determined by plurality in accordance with G.S. 163-292."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1545**CHAPTER 833**

**AN ACT TO PERMIT THE EMPLOYMENT OF UNLICENSED
SHAMPOOERS IN RANDOLPH COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. The last sentence of the second paragraph of G.S. 88-1 is amended by deleting "Randolph,".

Sec. 2. This act shall become effective September 1, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1554

CHAPTER 834

AN ACT TO RAISE THE COMPENSATION OF THE BUNCOMBE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 532, Session Laws of 1975, is amended by deleting "one hundred dollars (\$100.00) per month" and substituting "three hundred fifty dollars (\$350.00) per month" and by deleting "fifty dollars (\$50.00) per month" and substituting "two hundred fifty dollars (\$250.00) per month".

Sec. 2. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1558

CHAPTER 835

AN ACT TO PROVIDE FOR THE APPOINTMENT OF TRUSTEES FOR ALBEMARLE HOSPITAL IN PASQUOTANK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Trustees of Albemarle Hospital in Pasquotank County shall consist of 10 members. Five of the members shall be residents of the City of Elizabeth City or the Elizabeth City Township. Five members shall not be residents of the City of Elizabeth City but shall be one resident from each of the Townships of Newland, Providence, Mount Herman, Nixonton and Salem.

Sec. 2. All members of the Board of Trustees of Albemarle Hospital shall serve for terms of two years. Members may succeed themselves.

Sec. 3. The Board of County Commissioners of Pasquotank County shall set compensation, as the commissioners deem proper and appropriate, for the Board of Trustees of Albemarle Hospital. The trustees shall be paid from hospital funds.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1575

CHAPTER 836

AN ACT TO EXTEND THE LAW ENFORCEMENT JURISDICTION OF CITY LAW ENFORCEMENT OFFICERS ASSIGNED TO THE GASTON COUNTY DRUG ENFORCEMENT UNIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-402 is amended by adding a new subsection to the end to read:

“(f) City officers, assigned to the Gaston County Drug Enforcement Unit. A city law enforcement officer assigned to the Gaston County Drug Enforcement Unit shall have the same territorial jurisdiction to arrest persons as that accorded by statute or common law to a county police officer.”

Sec. 2. G.S. 160A-286 is amended by adding a new paragraph to the end to read: “In addition to the authority granted above by this section, a city law enforcement officer assigned to the Gaston County Drug Enforcement Unit shall have all the powers that are accorded by statute or common law to a county police officer.”

Sec. 3. This act shall apply only to Gaston County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1581

CHAPTER 837

AN ACT TO MAKE REVISIONS IN THE CHARTER OF THE CITY OF KINSTON.

The General Assembly of North Carolina enacts:

Section 1. Section 6-1(a) of the Charter of the City of Kinston, being Chapter 92, Session Laws of 1961, is rewritten to read:

“(a) The following offices and positions are hereby continued under this Charter; Mayor, Mayor pro tem, five Councilmen, City Manager, City Clerk, Director of Finance and Administration, Tax Collector, City Attorney, Chief of Police, Fire Chief, City Engineer, Public Works Director, Public Utilities Director, Planning and Community Development Director, Personnel Director and Recreation Director. The Council may assign to the said offices and positions functions in addition to those set forth in this Chapter, but may not discontinue or transfer from such offices and positions functions assigned to them by this Charter.”

Sec. 2. Sections 6-9 and 6-10 of the Charter of the City of Kinston, being Chapter 92, Session Laws of 1961, are rewritten to read:

“Sec. 6-9. *City Clerk.* The City Council shall, by a majority vote, elect a City Clerk to hold office for an indefinite term at the pleasure of the City Council. He shall have such powers and perform such duties as the City Council may from time to time prescribe in addition to such duties as are imposed upon him by this Charter or by General Law.

The City Council shall also have the authority to appoint a Deputy City Clerk to act during the absence or disability of the City Clerk and may assign to said Deputy the same powers, authority and duties as are assigned to the City Clerk.

It shall be the duty of City Clerk to attend every meeting of the City Council and keep the minutes and record of all proceedings in a well bounded book kept for that purpose.

The City Clerk shall receive such salary as may be fixed by the City Council according to the pay and classification plan.

Sec. 6-10. *Director of Finance and Administration.* The Director of Finance and Administration, acting under the City Manager, shall have

supervision and control of the fiscal affairs of the City. The City Manager shall appoint and may suspend and remove the Director of Finance and Administration subject to the personnel provisions of the City Charter. The Director of Finance and Administration shall have the following powers and duties:

He shall keep the accounts of the City in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Local Government Commission.

He shall disburse all funds of the City in strict compliance with the Local Government Budget and Fiscal Control Act, the Budget Ordinance, and each Project Ordinance and shall pre-audit obligations and disbursements as required by the Local Government Budget and Fiscal Control Act.

As often as may be requested by the Manager or City Council, he shall prepare and file with the Council a statement of the financial conditions of the City.

He shall receive and deposit all monies accruing to the City or supervise the receipt and deposit of monies by other duly authorized officers or employees.

He shall maintain all records concerning the bonded debt of the City, determine the amount of money that will be required for debt service during each fiscal year, and maintain all sinking funds.

He shall supervise the investment of idle funds of the City.

He shall perform such other duties as may be assigned to him by law, by the Manager, or City Council or by rules and regulations of the Local Government Commission.

He shall audit and determine the correctness of all accounts against the City presented to him for payment and he is fully authorized when deemed by him necessary or expedient to require any such account or claim to be certified by the affidavit of the claimant or, in the case of a corporation, by an officer thereof, and to that end the City Clerk shall be and he is hereby authorized to administer oaths and to require any person to answer such questions as may be propounded to him by the Director of Finance and Administration touching the correctness of any account or claim against the City.

The position of the Director of Finance and Administration shall be included in the official pay and classification plan as adopted by the City Council."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1582

CHAPTER 838

AN ACT TO CHANGE THE CHARTER OF THE SIMMONS-NOTT AIRPORT AUTHORITY SO AS TO REMOVE THE CITY OF NEW BERN FROM RESPONSIBILITY UNDER THAT ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 2(b) of Chapter 1197, Session Laws of 1979, is rewritten to read:

“(b) The Airport Authority shall consist of five members appointed by the Board of Commissioners of Craven County for two-year terms. The initial terms shall commence July 1, 1986.”

Sec. 2. Section 2(c) of Chapter 1197, Session Laws of 1979, is rewritten to read:

“(c) The Board of Commissioners of Craven County shall fill any vacancy within 60 days of the occurrence of the vacancy. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term.”

Sec. 3. Section 2(d) of Chapter 1197, Session Laws of 1979, is amended by deleting “and the City”.

Sec. 4. Section 4 of Chapter 1197, Session Laws of 1979, is amended by deleting “governing bodies of Craven County and the City of New Bern are”, and substituting “Board of Commissioners of Craven County is”.

Sec. 5. Section 5(a) of Chapter 1197, Session Laws of 1979, is amended by deleting “and the Board of Aldermen of the City of New Bern”.

Sec. 6. Section 5(b) of Chapter 1197, Session Laws of 1979, is rewritten to read:

“(b) The County of Craven may appropriate funds to the Authority.”

Sec. 7. Section 7 of Chapter 1197, Session Laws of 1979, is amended by adding the following at the end, “If any provisions of this section conflict with the provision of any contract between Craven County and the City of New Bern, that contract shall prevail.”

Sec. 8. Section 8(6) of Chapter 1197, Session Laws of 1979, is amended by deleting “and City”.

Sec. 9. Section 12 of Chapter 1197, Session Laws of 1979, is amended by deleting “and the Board of Aldermen of the City of New Bern”.

Sec. 10. The City of New Bern may convey at private sale all its right, title and interest in the Simmons-Nott Airport property (personal and real) to Craven County, subject to a reverter clause by which the interest would automatically revert to the City of New Bern if, for any reason, Craven County or its lessee should ever cease to operate the property as a public airport.

Sec. 11. This act is effective upon ratification, and conveyance of the Simmons-Nott Airport Authority Property by the City of New Bern to Craven County as provided in Section 10 hereof, except that Sections 1 and 2 shall become effective on the date the Board of Commissioners of Craven County appoint five persons to the Simmons-Nott Airport Authority.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1590

CHAPTER 839

AN ACT TO AUTHORIZE CATAWBA COUNTY AND MUNICIPALITIES LOCATED THEREIN TO REGULATE ABANDONED AND JUNKED VEHICLES FOR AESTHETIC PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 1 of Chapter 841 of the 1983 Session Laws is amended by adding immediately after "Dare" the word "Catawba".

Sec. 2. The first sentence of Section 2 of Chapter 841 of the 1983 Session Laws is amended by adding immediately after "Dare" the word "Catawba".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1615

CHAPTER 840

AN ACT TO REGULATE HUNTING FROM ROADS IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt any animal or bird from the right-of-way of any public road unless the person is the owner or lessee of or has the permission of the owner or lessee of the land abutting the right-of-way from which he is hunting.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or by imprisonment not to exceed 30 days, and punishable for a subsequent conviction within three years by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), by imprisonment not to exceed 90 days, or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by officers of the State Highway Patrol, by Alcohol Law Enforcement Agents, by local ABC officers, and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act applies only to Brunswick County.

Sec. 5. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

S.B. 438

CHAPTER 841

AN ACT TO IMPOSE MINIMUM TERMS OF IMPRISONMENT AND COMMUNITY SERVICE FOR CONVICTIONS OF CONCEALING MERCHANDISE OR SWITCHING PRICE TAGS.

The General Assembly of North Carolina enacts:

Section 1. The first sentences of G.S. 14-72.1(a) and (d) are each amended by deleting that part of the sentence beginning with the words "by a fine" and substituting the phrase "as provided in subsection (e)."

Sec. 2. G.S. 14-72.1(b) is deleted.

Sec. 3. G.S. 14-72.1 is amended by adding the following subsections to read:

"(e) Punishment. For a first conviction under subsections (a) or (d), or for a subsequent conviction for which the punishment is not specified by this subsection, the defendant may be fined up to one hundred dollars (\$100.00) and must be sentenced to a term of imprisonment that includes a minimum term of not less than 24 hours and a maximum term of not more than 60 days. The term of imprisonment may be suspended only on condition that the defendant perform community service for a term of at least 24 hours. For a second offense committed within three years after the date the defendant was convicted of an offense under this section, the defendant may be fined up to five hundred dollars (\$500.00) and must be sentenced to a term of imprisonment that includes a minimum term of not less than 72 hours and a maximum term of not more than six months. The term of imprisonment may be suspended only on condition that the defendant be imprisoned for a term of at least 72 hours as a condition of special probation, perform community service for a term of at least 72 hours, or both. For a third or subsequent offense committed within five years after the date the defendant was convicted of two other offenses under this section, the defendant may be fined and must be sentenced to a term of imprisonment that includes a minimum term of not less than 14 days and a maximum term of not more than two years. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 14 days.

(f) Community Service Period. If the judgment requires a defendant sentenced under this section to perform a specified number of hours of community service, the community service must be completed within:

- (1) 90 days, if the amount of community service required is 72 hours or more;
- (2) 60 days, if the amount of community service required is at least 48 hours but less than 72 hours; and
- (3) 30 days, if the amount of community service required is at least 24 hours but less than 48 hours.

The court may extend these time limits upon motion of the defendant if it finds that the defendant has made a good faith effort to comply with the time limits specified in this subsection. Failure to complete the community service requirement within the applicable time limits is a violation of the defendant's probation.

(g) Limitations. For active terms of imprisonment imposed under this section:

- (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial;
- (2) The defendant must serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period; and
- (3) The defendant may not be released or paroled unless he is otherwise eligible and has served the mandatory minimum period of imprisonment."

Sec. 4. This act shall become effective October 1, 1986, and shall apply to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

S.B. 485

CHAPTER 842

AN ACT TO PROVIDE THAT A RECORDED INSTRUMENT THAT CORRECTS AN OBVIOUS MINOR ERROR MADE IN THE INSTRUMENT AS ORIGINALLY RECORDED IS VALID IF THE CORRECTION IN THE NEW INSTRUMENT IS INITIALED AND AN EXPLANATION STATEMENT IS SIGNED BY THE PARTIES TO THE INSTRUMENT OR THE ATTORNEY WHO DRAFTED THE INSTRUMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 47 is amended by adding a new section to read:

"§ 47-36.1. *Correction of errors in recorded instruments.*—Notwithstanding G.S. 47-14 and 47-17, an obvious typographical or other minor error in a deed or other instrument recorded with the register of deeds may be corrected by rerecording the original instrument with the correction clearly set out on the face of the instrument and with a statement of explanation attached. The parties who signed the original instrument or the attorney who drafted the original instrument shall initial the correction and sign the statement of explanation. The statement of explanation need not be acknowledged. Notice of the correction made pursuant to this section shall be effective from the time the instrument is rerecorded."

Sec. 2. Article 4 of Chapter 47 is amended by adding a new section to read:

"§ 47-108.20. *Validation of certain recorded instruments that were not acknowledged.*—All instruments recorded before the effective date of this act, that were not reexecuted and reacknowledged and that correct an obvious typographical or other minor error in a recorded instrument that was previously properly executed and acknowledged are declared to be valid instruments."

Sec. 3. This act is effective upon ratification and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

S.B. 634

CHAPTER 843

AN ACT TO PERMIT GRAND JURIES TO INVESTIGATE DRUG TRAFFICKING, TO INCREASE THE MAXIMUM TERM OF IMPRISONMENT FOR CRIMINAL CONTEMPT FOR REFUSING TO TESTIFY AFTER BEING GRANTED IMMUNITY, AND TO LIMIT THE SCOPE OF IMMUNITY GRANTED WITNESSES TO USE IMMUNITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 5A-12(a) is amended by deleting the words "six months" and substituting the words "18 months".

Sec. 2. G.S. 15A-622 is amended by adding a new subsection to read:

"(h) A written petition for convening of grand jury under this section may be filed by the district attorney, with the concurrence of the Attorney General, with the Clerk of the North Carolina Supreme Court. The Chief Justice shall appoint a panel of three judges to determine whether to order the grand jury convened. A grand jury under this section may be convened if the three-judge panel determines that:

- (1) The petition alleges the commission of or a conspiracy to commit a violation of G.S. 90-95(h) or G.S. 90-95.1, any part of which violation or conspiracy occurred in the county where the grand jury sits, and that persons named in the petition have knowledge related to the identity of the perpetrators of those crimes but will not divulge that knowledge voluntarily or that such persons request that they be allowed to testify before the grand jury; and
- (2) The affidavit sets forth facts that establish probable cause to believe that the crimes specified in the petition have been committed and reasonable grounds to suspect that the persons named in the petition have knowledge related to the identity of the perpetrators of those crimes.

The affidavit shall be based upon personal knowledge or, if the source of the information and basis for the belief are stated, upon information and belief. The panel's order convening the grand jury as an investigative grand jury shall direct the grand jury to investigate the crimes and persons named in the petition, and shall be filed with the Clerk of the North Carolina Supreme Court. A grand jury so convened retains all powers, duties, and responsibilities of a grand jury under this Article. The contents of the petition and the affidavit shall not be disclosed. Upon receiving a petition under this subsection, the Chief Justice shall appoint a panel to determine whether the grand jury should be convened as an investigative grand jury."

Sec. 3. G.S. 15A-623 is amended by adding a new subsection to read:

"(h) If a grand jury is convened pursuant to G.S. 15A-622(h), notwithstanding subsection (d) of this section, a prosecutor shall be present to examine witnesses, and a court reporter shall be present and record the examination of witnesses. If the prosecutor determines that it

is necessary to compel testimony from the witness, he may grant use immunity to the witness. The grant of use immunity shall be given to the witness in writing by the prosecutor and shall be signed by the prosecutor. The written grant of use immunity shall also be read into the record by the prosecutor and shall include an explanation of use immunity as provided in G.S. 15A-1051. A witness shall have the right to leave the grand jury room to consult with his counsel at reasonable intervals and for a reasonable period of time upon the request of the witness. Notwithstanding subsection (e) of this section, the record of the examination of witnesses shall be made available to the examining prosecutor, and he may disclose contents of the record to other investigative or law enforcement officers to the extent that the disclosure is appropriate to the proper performance of his official duties. The record of the examination of a witness may be used in a trial to corroborate or impeach that witness to the extent that it is relevant and otherwise admissible. Further disclosure of grand jury proceedings convened pursuant to this act may be made upon written order of a superior court judge if the judge determines disclosure is essential:

- (1) To prosecute a witness who appeared before the grand jury for contempt or perjury; or
- (2) To protect a defendant's constitutional rights or statutory rights to discovery pursuant to G.S. 15A-903.

Upon the convening of the investigative grand jury pursuant to approval by the three judge panel, the district attorney shall subpoena the witnesses. The subpoena shall be served by the investigative grand jury officer, who shall be appointed by the court. The name of the person subpoenaed and the issuance and service of the subpoena shall not be disclosed, except that a witness so subpoenaed may divulge that information. A copy of all subpoenas and other process shall be returned to the Chief Justice or to such member of the three judge panel as the Chief Justice may designate, to be filed with the Clerk of the North Carolina Supreme Court. The subpoena shall otherwise be subject to the provisions of G.S. 15A-801. When an investigative grand jury has completed its investigation of the crimes alleged in the petition, the investigative functions of the grand jury shall be dissolved and such investigation shall cease. The District Attorney shall file a notice of dissolution of the investigative functions of the grand jury with the Clerk of the North Carolina Supreme Court."

Sec. 4. G.S. 15A-1051(a) is amended by rewriting the third sentence of that subsection to read:

"Except as provided in G.S. 15A-623(h), no testimony or other information so compelled, or any information directly or indirectly derived from the testimony or other information, may be used against the witness in a criminal case, except a prosecution for perjury or contempt arising from a failure to comply with an order of the court. In the event of a prosecution of the witness he shall be entitled to a record of his testimony."

Sec. 5. G.S. 8-57(b) is amended by adding, immediately following the word "defendant" the second time it appears in subsection (b), the words: "in any criminal action or grand jury proceedings".

Sec. 6. This act shall become effective October 1, 1986 and shall expire October 1, 1988, but the said expiration date shall not affect the term or authority of a grand jury constituted at that time.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1483

CHAPTER 844

AN ACT TO REVISE THE CHARTER OF THE CITY OF ELIZABETH CITY, CHANGE THE FORM OF GOVERNMENT OF THE CITY OF ELIZABETH CITY AND SCHEDULE NONPARTISAN MUNICIPAL ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of the Charter of the City of Elizabeth City being Chapter 158, Session Laws of 1963 is rewritten to read:

“Sec. 4. That the City of Elizabeth City shall be divided into four wards or electoral districts to be known respectively as the First, Second, Third and Fourth Wards pursuant to Article 4 of Chapter 160A of the North Carolina General Statutes, as same may be amended from time to time.

First Ward Boundaries. The First Ward shall be bounded as follows:

Beginning at the center of the intersection of Edgewood Drive and Parkview Drive which point is also the approximate point of intersection of Parkview Drive and Park Drive; thence in a Northwardly direction down the centerline of Park Drive to its point of intersection with the centerline of Rivershore Road; thence along the centerline of Rivershore Road in a Northwardly direction to its point of intersection with the centerline of North Williams Circle; thence westwardly along the centerline of N. Williams Circle to a point where same intersects the centerline of West William Circle; thence Northwardly along the centerline of West Williams Circle to a point where same intersects the centerline of North Williams Circle; thence Southwardly along the centerline of north Williams Circle to a point where same intersects the centerline of Park Street; thence along the centerline of Park Street in a Westwardly direction to a point where same intersects the centerline of Southern Avenue; thence in a Northwardly direction along the centerline of Southern Avenue to a point where same intersects the centerline of B Street; thence Westwardly along the centerline of B Street to a point where same intersects the centerline of Herrington Road; thence Northwardly along the centerline of Herrington Road to the point where same intersects the centerline of South Road Street; thence along the centerline of South Road Street in a Northwardly direction to a point where same intersects the centerline of North Road Street; thence Northwardly along the centerline of North Road Street to the point where same intersects the centerline of Ward Street; thence along the centerline of Ward Street and the Easterly prolongation thereof in an Easterly direction to the point where same intersects the city limits of the City of Elizabeth City; thence commencing in a general southwardly direction along the city limits of the City of Elizabeth City, its various courses and distances, to its point of intersection with the centerline of River Road;

thence westwardly along the centerline of River Road to its point of intersection with the centerline of Crescent Drive; thence southwardly along the centerline of Crescent Drive to its point of intersection with the centerline of Parkview Drive; thence westwardly along the centerline of Parkview Drive to the point and place of beginning.

Second Ward Boundaries. The Second Ward shall be bounded as follows:

Beginning at the center of the intersection of West Church Street and South Road Street; thence along the centerline of West Church Street in a Westwardly direction to its intersection with the centerline of Hughes Blvd.; thence along the centerline of Hughes Blvd. in a southwardly direction to its point of intersection with the centerline of the Norfolk-Southern Railway right of way (spur track); thence along the centerline of the Norfolk-Southern Railway right of way in a Westwardly direction to its point of intersection with the city limits of the City of Elizabeth City; thence commencing in a general northwardly direction and then southwardly direction along the city limits of the City of Elizabeth City, its various courses and distances, to the point of intersection of the city limits of the City of Elizabeth City with the Easterly prolongation of the centerline of Ward Street; thence along the Eastwardly prolongation of the centerline of Ward Street in a Westwardly direction to the centerline of Ward Street; thence along the centerline of Ward Street in a Westwardly direction to its point of intersection with the centerline of North Road Street; thence along the centerline of North Road Street in a Southerly direction to its point of intersection with the centerline of South Road Street; thence along the centerline of South Road Street to the point and place of beginning.

Third Ward Boundaries. The Third Ward shall be bounded as follows:

Beginning at the center of the intersection of West Church Street and South Road Street; thence along the centerline of West Church Street in a Westwardly direction to its point of intersection with the centerline of Hughes Blvd.; thence along the centerline of Hughes Blvd. in a southerly direction to its point of intersection with the centerline of Norfolk-Southern Railway right of way (spur track); thence along the centerline of the Norfolk-Southern Railway right of way in a Westwardly direction to its point of intersection with the city limits of the City of Elizabeth City; thence commencing in a general southwardly direction and eastwardly direction along the city limits of the City of Elizabeth City, its various courses and distances, to its point of intersection with the centerline of Peartree Road; thence in a Northerly direction along the centerline of Peartree Road to a point where same intersects the centerline of South Road Street; thence in a Northerly direction along the centerline of South Road Street to the point and place of beginning.

Fourth Ward Boundaries. The Fourth Ward shall be bounded as follows:

Beginning at a point marked by the intersection of the centerline of Peartree Road with the City limits of the City of Elizabeth City; thence in a Northerly direction along the centerline of Peartree Road to a point where same intersects the centerline of south Road Street; thence in a Southerly direction along the centerline of South Road Street to a point where same intersects the centerline of Herrington Road; thence in a Southerly direction along the centerline of Herrington Road to a point

where same intersects the centerline of B Street; thence in an Easterly direction along the centerline of B Street to a point where same intersects the centerline of Southern Avenue; thence in a Southerly direction along the centerline of Southern Avenue to a point where same intersects the centerline of Park Street; thence in an Easterly direction along the centerline of Park Street to a point where same intersects the centerline of North Williams Circle; thence in a Northerly direction along the centerline of North Williams Circle to a point where same intersects the centerline of West Williams Circle; thence in a Southerly direction along the centerline of West Williams Circle to a point where same intersects the centerline of north Williams Circle; thence along the centerline of North Williams Circle in an Easterly direction to a point where same intersects the centerline of Rivershore Road; thence in a Southerly direction along the centerline of Rivershore Road to a point where same intersects the centerline of Park Drive; thence in a Southerly direction along the centerline of Park Drive to a point where same intersects the centerline of Parkview Drive which point is also the approximate center of the intersection between Parkview Drive and Edgewood Drive; thence along the centerline of Parkview Drive in an easterly direction to its point of intersection with the centerline of Crescent Drive; thence Northerly along the centerline of Crescent Drive to its point of intersection with the centerline of River Road; thence eastwardly along the centerline of River Road to its point of intersection with the City limits of the City of Elizabeth City; thence commencing Southwardly and then Northwardly along the city limits of the City of Elizabeth City, its various courses and distances, to the point and place of beginning.

Sec. 2. Sections 5 and 6 of the Charter of the City of Elizabeth City being Chapter 158, Session Laws of 1963 are rewritten to read:

“Sec. 5. A nonpartisan election shall be held in the City of Elizabeth City as scheduled by G.S. 163-279(a)(4), or any successor statute. The first election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November in the year 1987 and biennially thereafter for the election of such officers of the city as are herein provided and for the submission to popular vote of such issues as are directed by the City Council or the General Assembly of the State of North Carolina.

Sec. 6. Municipal elections and runoff elections shall be conducted as provided in G.S. 163-293, or any successor statute. Runoff elections shall be governed by the procedures set forth in G.S. 163-293, or any successor statute; and if a runoff election is required, same shall be held as scheduled in G.S. 163-279(a)(4), or any successor statute. The first runoff election date, if required, shall be held on Tuesday after the first Monday in November in the year 1987.”

Sec. 3. Sections 9 and 10 of the Charter of the City of Elizabeth City being Chapter 158, Session Laws of 1963, are rewritten to read:

“Sec. 9. All powers of the city, except as herein otherwise provided, shall be vested in a city council of eight members and a mayor. The term of the city council members shall be for four years and the term of the mayor shall be for two years. City council members and the mayor shall serve and their terms shall continue until their respective successors are elected and duly qualified. The term of office shall begin on the first

Monday in December after each election or as otherwise provided pursuant to G.S. 160A-68, or any successor statute.

Sec. 10. Pursuant to Section 4 of the Charter of the City of Elizabeth City and Article 4 of Chapter 160A of the North Carolina General Statutes, as same may be amended from time to time, the city shall be divided into four wards or electoral districts and two seats of the eight city council members shall be apportioned and assigned to each ward or electoral district.

The qualified voters of each ward or electoral district shall vote for and elect candidates to the two 'ward seats' of city council so assigned and apportioned to the respective ward or electoral district. No person may be a candidate for a 'ward seat' unless that person is a resident and qualified voter of the ward or electoral district for which 'ward seat' said person desires to be elected.

The qualified voters residing in the entire city shall vote for and elect a candidate for the office of mayor. No person may be a candidate for mayor unless that person is a resident and qualified voter of the city.

There shall be elected one council member from each ward or electoral district and the mayor at each biennial municipal election to fill the offices of the council members and mayor whose terms will expire upon the election and qualifications of their successors on the first Monday in December after each biennial election.

In the event there should be a tie between two candidates for any office after a runoff election, the Pasquotank County Board of Elections shall determine the winner by lot as provided by G.S. 163-293(f), or any successor statute.

If a vacancy occurs in the office of mayor or an office of a council member, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining council members. Provided, no person may be so elected to the office of mayor unless said person is a resident and qualified voter of the city; and no person may be so elected to the office of council member from any ward or electoral district unless said person is a resident and qualified voter of that ward or electoral district.

If any council member should change his or her residence from the ward or electoral district from which he or she was elected or the mayor from the city, his or her term of office shall immediately expire and a vacancy as to that office shall immediately occur."

Sec. 4. (a) Notwithstanding the scheduling of municipal elections in the City of Elizabeth City and the date upon which terms of office for Mayor and council members commence as provided in the amendments to the Charter of the City of Elizabeth City adopted in Sections 2 and 3 of this act, the nonpartisan municipal election for the office of mayor and four council members, originally scheduled to be conducted on October 7, 1985, shall be conducted in accordance with the schedule and procedures hereinafter prescribed, and except as provided by this section, the provisions of Chapter 163 of the General Statutes of North Carolina shall apply.

(b) The public notice relative to the election to be conducted in accordance with this section shall be published in a newspaper having general circulation in Elizabeth City on November 2, 1986. At least one

other publication shall be made no later than one week following the date of the first publication.

(c) The nonpartisan municipal election for mayor and for one council member from each ward as delineated in Section 1 of this act shall be conducted on Tuesday, December 2, 1986, and a runoff election, if required shall be conducted on Tuesday, January 6, 1987.

(d) The public notice relative to a runoff election, if one is required, to be conducted in accordance with this section shall be published in a newspaper having general circulation in Elizabeth City no later than 10 days following the election, and at least one other publication shall be made no later than one week following the date of the first publication.

(e) Each person offering himself or herself as a candidate for election to the offices of Mayor or council member from any of the four wards pursuant to the election herein scheduled by Section 4 of this act shall do so by filing a notice of candidacy with the Pasquotank County Board of Elections pursuant to G.S. 163-294.2. Candidates may file their notices of candidacy at any time after 12:00 noon on the Friday preceding the eighth Saturday and before 12:00 noon on the Friday preceding the fifth Saturday before the municipal election scheduled for December 2, 1986. A public notice relative to the time period during which interested persons may file notices of candidacy shall be published in a newspaper having general circulation in Elizabeth City no later than 10 days before the filing period opens, and at least one other publication shall be made no later than one week following the date of the first publication. Except as otherwise stated herein, G.S. 163-294.2 shall apply to filing notices of candidacy.

(f) The terms of the Mayor and city council members elected pursuant to this section shall commence on February 2, 1987, upon qualification and their terms shall expire on the same dates their terms would have expired had said Mayor and city council members been elected at the elections scheduled for October 7, 1985.

(g) The provisions of this section shall be temporary and shall apply only to the election and if required, the runoff election scheduled herein. The provisions of Section 4 of this act shall expire following final certification of the election and if required, the runoff election scheduled herein.

(h) In the event any portion of this section is held unconstitutional or invalid by a State or Federal Court or is unenforceable because of objection interposed by the United States Department of Justice under the Voting Rights Act of 1965 (as amended) or if the United States Department of Justice imposes requirements in addition to those set forth herein in connection with the election and if required, the runoff election, herein scheduled, which additional requirements are prerequisites to obtaining a non-objection by the United States Attorney General under the Voting Rights Act of 1965 (as amended), then and in any of said events, the State Board of Elections shall have authority to make reasonable interim rules and regulations with respect to the election and if required, the runoff election herein scheduled, and to implement any additional requirements which may be imposed as set forth above, in addition to or in lieu of the procedures set forth in this section, and such

rules and regulations shall expire at the time set forth in subsection (g) of this section.

Sec. 5. To the extent any provision of Chapter 158 of the Session Laws of 1963 is inconsistent with any provision of this act, same is hereby repealed.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1492

CHAPTER 845

AN ACT TO ANNEX CERTAIN NON-CONTIGUOUS TERRITORY TO THE TOWN OF MAIDEN.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Maiden are extended to include the following described non-contiguous territory: BEGINNING at an iron pin, said point being the Northwest corner of Lowman in the center of U.S. Highway 321, and running thence with U.S. Highway 321, North 2° 12' West 298 feet to an iron pin in the center of said highway; thence running North 52° 31' East 31 feet to an iron pin at the South edge of Mays Chapel Church Road, State Road No. 1880; thence with the South side of State Road No. 1880, North 52° 31' East 258.4 feet to an iron pin, the Northwest corner of Lot No. 9 of Block "C" of Robinson Heights Subdivision, No. 1, Newton Township, Catawba County, North Carolina, as shown on plat made by Joe F. Robinson, which said plat is recorded in Plat Book 12 at Page 129; thence running with the front lines of Lots 9, 10, 11, and 12 of Block "C" as shown on said plat and the South edge of Robin Road, South 70° 48' East 107.1 feet to an iron pin, the Northeast corner of Lot 12 at the South edge of Robin Road; thence with the common line of Lots 12 and 13 of Block "C" of Robinson Heights Subdivision, No. 1, as shown on plat recorded in Book 12 at Page 129, South 6° 48' East 232.2 feet to an iron pin, common corner of Lots 12 and 13, Block "C", of Robinson Heights Subdivision, No. 1, as shown on plat recorded in Book 12 at Page 149 in the Lowman line; thence running with the Lowman line, South 59° 16' West 100 feet to an iron pin, the Southwest corner of Lot No. 9; thence continuing with the Lowman line, South 59° 16' West 269 feet to an iron pin; thence continuing the same course, South 59° 16' West 31 feet to the point of BEGINNING, and being Lots Nos. 9, 10, 11, and 12 of Block "C" of the Robinson Heights Subdivision, No. 1, as shown on plat recorded in Plat Book 12 at Page 129, Catawba County Registry, and un-numbered large lot located to the West of said lots bordering on Highway No. 321 on the West, State Highway No. 1880 on the North, and Lowman property on the South.

Also included within the above-described property is any and all right, title, and interest of the owner thereof in the property which lies to the North of the above-described property to the center of State Road 1880 and to the center of Robin Road, both of which roads border the subject property to the North and Northeast.

Sec. 2. The territory annexed to the Town of Maiden by Section 1 of this act shall be treated for all purposes as if it had been annexed pursuant to Part 4 of Article 4A of Chapter 160A of the General Statutes, and subject to taxation as provided in Part 5 of that Article.

Sec. 3. This act shall become effective June 30, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1525

CHAPTER 846

AN ACT TO ALLOW CRAVEN COUNTY AND MUNICIPALITIES
LOCATED THEREIN TO ENGAGE IN ECONOMIC DEVELOPMENT
ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-7.1(f) is amended by deleting "one-half of one percent (0.05%)", and substituting "one-half of one percent (0.5%)".

Sec. 2. Section 4 of Chapter 639, Session Laws of 1985 is amended by adding immediately after the word "Duplin," the word "Craven,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1561

CHAPTER 847

AN ACT TO RATIFY CERTAIN ACTIONS OF THE TOWN OF
WEDDINGTON AND THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. It is the purpose of this act to ratify and sanction certain actions of the Town of Weddington and City of Charlotte. This act does not ratify any past actions not specifically described herein. This act does not authorize any future action not specifically described herein.

Sec. 2. Action is hereby fully ratified of the Town Council of the Town of Weddington in enacting an ordinance, appearing in Ordinance Book I at page 57 of the Town of Weddington, which rescinded an earlier annexation ordinance, appearing in Ordinance Book I at page 41 of the Town of Weddington, and said ordinance is void and shall not be construed as ever having any force and effect.

Sec. 3. Action is hereby fully ratified of the Town Council of the Town of Weddington in enacting an ordinance appearing in Ordinance Book I at page 59 of the Town of Weddington and said ordinance is fully effective to annex the property described therein into the corporate limits of the Town of Weddington.

Sec. 4. Action is hereby fully ratified of the Town of Weddington and City of Charlotte in approving and executing an agreement effective January 1, 1986, between them and under the authority of Chapter 953 of the 1984 Session Laws of the General Assembly of North Carolina. The Council of the City of Charlotte approved said agreement on December 30, 1985, as set forth in Minute Book 85 at page 229 of the City of Charlotte.

The Council of the Town of Weddington approved agreement on December 23, 1985, as set forth in Minute Book III of the Town of Weddington, and which appears in Ordinance Book I at pages 61-64 of the Town of Weddington. Said agreement is fully effective and shall continue in full force and effect until terminated as set forth in said agreement.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1576

CHAPTER 848

AN ACT TO ALLOW GASTON COUNTY AND MUNICIPALITIES LOCATED THEREIN TO ENGAGE IN ECONOMIC DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-7.1(f) is amended by deleting "one-half of one percent (0.05%)", and substituting "one-half of one percent (0.5%)".

Sec. 2. Section 4 of Chapter 639, Session Laws of 1985, is amended by adding immediately after the word "Duplin," the word "Gaston,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1579

CHAPTER 849

AN ACT TO CREATE THE ELIZABETHTOWN AIRPORT AND ECONOMIC DEVELOPMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Elizabethtown Airport and Economic Development Commission (the "Commission") which shall have all the powers and duties of a municipal airport commission under Article 6 of Chapter 63 of the General Statutes, and all the powers and duties of a regional economic development commission under Article 2 of Chapter 158 of the General Statutes as to the general area surrounding the Elizabethtown Airport.

Sec. 2. The Commission shall have seven members, all of whom shall be residents of the Town of Elizabethtown. The members shall be appointed by the Elizabethtown Board of Commissioners (the "Board") for staggered terms of four years each, provided that initial appointments shall be for the following terms: two members, one year each; two members, two years each; two members, three years each; and one member, four years. One member shall be designated chairman by the Board and shall serve in that capacity at the pleasure of the Board. The Board may change the number of members and their terms, the manner of appointment of the chairman and other provisions concerning the Commission as authorized by Article 6 of Chapter 63 of the General Statutes or Article 2 of Chapter 158 of the General Statutes.

Sec. 3. The Commission shall present financial reports to the Board at least annually, or as requested by the Board.

Sec. 4. Section 4 of Chapter 639, Session Laws of 1985, is amended by deleting the period at the end and adding the following: “, and the Town of Elizabethtown.”

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 606

CHAPTER 850

AN ACT TO AUTHORIZE WAKE COUNTY AND THE CITY OF RALEIGH TO LEVY OCCUPANCY TAXES.

The General Assembly of North Carolina enacts:

Section 1. Wake occupancy tax. (a) Authorization and Scope. The Wake County Board of Commissioners may, by resolution, levy a room occupancy tax of no more than three percent (3%) of the gross receipts derived from the rental in Wake County of any room, lodging, or similar accommodation subject to sales tax under G.S. 105-164.4(3).

This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations when furnished in furtherance of their nonprofit purpose. This tax is in addition to any State or local sales tax.

(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately on the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Wake County. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The Wake County Tax Collector shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted by him to the county a discount of one percent (1%) of the amount collected as reimbursement for the expenses incurred in collecting the tax.

(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax collector in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal

to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) and imprisonment not to exceed six months.

(e) Use and Distribution of Tax Revenue. Wake County shall distribute the net proceeds of the occupancy tax as follows:

- (1) The first one million dollars (\$1,000,000) of net proceeds from the tax in each fiscal year shall be transferred by the county to the Convention and Visitor Bureau established pursuant to this act for use by the Bureau for activities and programs aiding and encouraging convention and visitor promotion.
- (2) The remaining net proceeds shall be distributed, on a quarterly basis, between the county and the incorporated towns and cities located in the county in proportion to the amount of occupancy tax revenue collected from each during the quarter for which the distribution is being made. Amounts retained by the county or distributed to a town or city under this subdivision may be used only to acquire, construct, finance, service debt for, maintain, and operate convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; provide off-street parking facilities for use in conjunction with these facilities; and to fund visitor-related programs and activities, including cultural programs, events, or festivals, and convention and visitor programs and activities of the Convention and Visitor Bureau.

The county, or a town or city that receives revenue under this subsection may contract with a nonprofit organization to undertake or carry out the activities and programs for which the revenue may be expended. All contracts entered into with nonprofit organizations shall require an annual financial audit of any funds expended and a performance audit of contractual obligations.

As used in this subsection, "net proceeds" means gross proceeds less the direct cost to the county of administering and collecting the tax, not to exceed three percent (3%) of the amount collected.

(f) Bureau Established. When the board of county commissioners adopts a resolution levying an occupancy tax, the City of Raleigh shall take immediate action to adopt an ordinance establishing the Raleigh Convention and Visitor Bureau. The Bureau shall be governed by a Board of Directors consisting of 11 members appointed by the Raleigh City Council as follows:

- (1) Six owners or operators of hotels, motels, or other taxable accommodations, one of whom shall be selected by the board of county commissioners from a list of at least 10 nominees furnished by the Raleigh Hotel and Motel Association,

Incorporated, and five of whom shall be selected by the Raleigh City Council from the same list of nominees furnished by the Raleigh Hotel and Motel Association to the county commissioners.

- (2) Two individuals who are directly involved in a tourist or convention-related business but do not own or operate a hotel, motel, or other taxable accommodation, selected by the Raleigh City Council.
- (3) A resident of Raleigh, selected by the Raleigh City Council, and a resident of Wake County but not of Raleigh, selected by the board of county commissioners, neither of whom is directly involved in a tourist or convention-related business or owns or operates a hotel, motel, or other taxable accommodation.
- (4) One individual who is a member of the Greater Raleigh Chamber of Commerce, selected by the Chairman of the Board of Directors of the Greater Raleigh Chamber of Commerce.

Members shall be appointed by the City of Raleigh and shall serve according to the ordinances and regulations of the city concerning service on city boards and commissions.

(g) Powers and Duties of Bureau. The Raleigh Convention and Visitor Bureau may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions. The Bureau shall prepare an annual budget based on anticipated revenues and shall submit the budget to the Raleigh City Manager for processing and approval through the regular budget procedure of the city. The Bureau shall make quarterly reports to the Raleigh City Council detailing its revenues, expenditures, and activities. The city may audit the Bureau's financial records upon reasonable notice to the Bureau. At the end of each fiscal year, any funds of the Bureau not expended, or obligated or reserved as approved by the Raleigh City Council, shall be remitted to the City of Raleigh for use in accordance with subdivision (e) (2).

(h) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Wake County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Raleigh occupancy tax. (a) Authorization; Scope; Administration. If the Wake County Board of Commissioners has not levied the tax authorized by Section 1 of this act or has levied the tax at a rate of less than three percent (3%), the Raleigh City Council may, by ordinance, levy a room occupancy tax at a rate that does not exceed three percent (3%) when combined with the Wake County occupancy tax rate, if any.

This tax shall apply to the same accommodations that are taxable under Section 1 of this act and shall be collected and administered in the same manner as the tax authorized by that section, unless this section specifies otherwise. In applying the provisions of Section 1 to a tax levied

by the Raleigh City Council under this section, however, all references in Section 1 to Wake County or an official of Wake County shall be construed to mean the City of Raleigh and the city counterpart to the county official. Accordingly, the Raleigh Tax Collector shall collect an occupancy tax levied by the city.

(b) Distribution of Revenue. The net proceeds of a tax levied under this section shall be distributed as follows:

- (1) The first one million dollars (\$1,000,000) of net proceeds from the tax in each fiscal year shall be transferred by the city to the Convention and Visitor Bureau established pursuant to this act for use by the Bureau for activities and programs aiding and encouraging convention and visitor promotion.
- (2) The remaining net proceeds shall be retained by the city and used only to acquire, construct, finance, service debt for, maintain, and operate convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; provide off-street parking facilities for use in conjunction with these facilities; and to fund visitor-related programs and activities, including cultural programs, events, or festivals, and convention and visitor programs and activities of the Convention and Visitor Bureau.

(c) Bureau Membership. If Wake County has not levied an occupancy tax under Section 1, the City of Raleigh's resolution levying the occupancy tax shall establish the Raleigh Convention and Visitor Bureau. The membership, selection, and appointment of the Board of Directors of the Raleigh Convention and Visitor Bureau shall be the same as stated in subsection (f) of Section 1, except that the membership shall be reduced by two by deleting the two members selected by the board of county commissioners. To replace these members, the Raleigh City Council may add two at-large members to the Board of Directors of the Bureau.

Sec. 3. Effect of county tax on previously levied city tax. If the City of Raleigh levies an occupancy tax under Section 2 of this act, and the Wake County Board of Commissioners subsequently adopts a resolution levying an occupancy tax in Wake County under Section 1 of this act, the occupancy tax levied by the City of Raleigh shall be repealed as of the effective date of the county levy if the county levies an occupancy tax at the rate of three percent (3%), and shall be reduced by the amount that the combined county and city occupancy tax rates exceed three percent (3%) if the county rate is less than three percent (3%), and the Convention and Visitor Bureau membership shall be increased or changed to conform to Section 1(f) from and after the effective date of the county levy.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

S.B. 1292

CHAPTER 851

AN ACT TO EXTEND CERTAIN PROVISIONS.

The General Assembly of North Carolina enacts:

—MOTOR CARRIER TRANSFER

Section 1. Section 164(d) of Chapter 757, Session Laws of 1985, is amended by deleting “July 1, 1986”, and substituting “August 1, 1986”.

—BUDGET TRANSFERS

Sec. 2. Section 161 of Chapter 479, Session Laws of 1985, is amended by deleting “June 30, 1986”, and substituting “July 30, 1986”.

—RETIRED APPELLATE JUDGE SERVICE EXTENDED

Sec. 3. Section 15(b) of Chapter 698, Session Laws of 1985, is amended by deleting “June 30, 1986”, and substituting “July 30, 1986”.

—MOTOR VEHICLE REGISTRATION RESTORATION

Sec. 4. (a) Effective June 30, 1986, Section 183 of Chapter 479 of the 1985 Session Laws is rewritten to read:

“Sec. 183. Funding for the 36 process server and clerical positions in the Division of Motor Vehicles related to enforcement of the Vehicle Financial Responsibility Act shall end as these positions become vacant. Any vacancies occurring in these positions may not be filled.”

(b) The Department of Transportation may transfer funds within the Highway Fund to implement this section.

—APA RULE SUNSET EXTENSION

Sec. 5. G.S. 150B-59(c) is amended by deleting “June 30, 1986” both times it appears and substituting “July 31, 1986”.

Sec. 6. G.S. 150B-59(c) is amended by deleting “July 1, 1986”, and substituting “August 1, 1986”.

Sec. 7. This act shall become effective June 30, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.B. 1509

CHAPTER 852

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE STATUTES CREATING INFRACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1116(a), as enacted by Chapter 764 of the Session Laws of 1985, is amended in the second sentence by adding after the word “penalty” the words “or costs”.

Sec. 2. G.S. 15A-1116(a), as enacted by Chapter 764 of the Session Laws of 1985, is amended by rewriting the third sentence to read: “If the infraction is a motor vehicle infraction, the court must report a failure to pay the applicable penalty and costs to the Division of Motor Vehicles as specified in G.S. 20-24.2.”

Sec. 3. G.S. 15A-1117, as enacted by Chapter 764 of the Session Laws of 1985, is recodified as G.S. 20-24.2 and rewritten to read as follows:

“§ 20-24.2. *Court to report failure to appear or pay fine, penalty or costs.*—The court must report to the Division the name of any person charged with a motor vehicle offense under this Chapter who:

- (1) Fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, he either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146; or
- (2) Fails to pay a fine, penalty, or costs within 20 days of the date specified in the court's judgment.”

Sec. 4. G.S. 20-24.1, as enacted by Chapter 764 of the Session Laws of 1985, is amended by rewriting the caption to read: “Revocation for failure to appear or pay fine, penalty or costs for motor vehicle offenses.”

Sec. 5. G.S. 20-24.1(b), as enacted by Chapter 764 of the 1985 Session Laws, is amended as follows:

(1) In subdivision (2) by deleting the word “infraction” and inserting in its place the word “offense”;

(2) In subdivision (3) by adding after the word “penalty” the words, “fine, or costs”; and

(3) In subdivision (4) by adding the words, “, fine, or costs” after the word “penalty” both times in which it appears in the subdivision.

Sec. 6. G.S. 20-24.1, as enacted by Chapter 764 of the Session Laws of 1985, is amended by adding a new subsection (e) to read:

“(e) As used in this section and in G.S. 20-24.2, the word offense includes crimes and infractions created by this Chapter.”

Sec. 7. G.S. 20-176(d), as enacted by Chapter 764 of the 1985 Session Laws, is amended by deleting “criminal offenses” and inserting in its place “crimes”.

Sec. 8. G.S. 20-115 is amended by deleting the words “and constitute a misdemeanor”.

Sec. 9. G.S. 20-24.1(c), as enacted by Chapter 764 of the 1985 Session Laws, is amended by deleting “G.S. 20-7(o)” and inserting in its place “G.S. 20-7(il)”.

Sec. 10. G.S. 15A-1115(a), as enacted by Chapter 764 of the 1985 Session Laws, is amended by deleting the second sentence and inserting in its place the following: “Upon appeal, the defendant is entitled to a jury trial unless he consents to have the hearing conducted by the judge.”

Sec. 11. G.S. 20-138.3(c) is amended by rewriting the first sentence to read:

“The offense in this section is a misdemeanor punishable under G.S. 20-176(c).”

Sec. 12. G.S. 15A-1113(c)(1), as enacted by Chapter 764 of the Session Laws of 1985, is rewritten to read;

“(1) He is licensed to drive by a state that subscribes to the nonresident violator compact as defined in Article 1B of Chapter 20 of the General Statutes, the infraction charged is subject to the provisions of that compact, and he executes a personal recognizance as defined by that compact.”

Sec. 13. Section 39 of Chapter 764 of the 1985 Session Laws is repealed.

Sec. 14. G.S. 143-116.7 is amended:

(1) By rewriting subsection (g) to read:

“(g) Any violation under this section or of a provision of Chapter 20 of the General Statutes made applicable to the grounds of State institutions solely by operation of this section shall be considered an infraction and shall be subject to an infraction penalty not to exceed fifty dollars (\$50.00). A regulation adopted under this section may provide that a violation shall not be an infraction, but shall be enforced by other methods available, including the methods authorized by subsection (e).”; and

(2) By adding a new sentence to subsection (h) to read:

“Infraction penalties shall be disbursed as provided in G.S. 14-3.1.(a).”

Sec. 15. G.S. 15A-1116(b) is amended by inserting the word “criminal” after the word “a” and before the word “summons”.

Sec. 16. G.S. 7A-517 (12) is amended by deleting the words “criminal offense” and inserting in their place the word “crime or infraction”.

Sec. 17. Section 40 of Chapter 764 of the 1985 Session Laws is amended by deleting the word “July” and inserting in its place the word “September”.

Sec. 18. Section 17 of this act is effective upon ratification. Section 1-16 shall become effective on September 1, 1986.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

S.B. 904

CHAPTER 853

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DETERMINING CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-2.1, 105-114, 105-130.2(1), 105-135(15), 105-163.1(11), and 105-212 are each amended by deleting the date “December 31, 1984” and substituting the date “January 1, 1986”.

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1986.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

S.B. 905

CHAPTER 854

AN ACT TO INCREASE THE MINIMUM CORPORATE FRANCHISE TAX TO AN AMOUNT THAT COVERS THE COST OF PROCESSING FRANCHISE TAX RETURNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-120.2(b)(1) and G.S. 105-122(d) are each amended by deleting the phrase “ten dollars (\$10.00)” and substituting the phrase “twenty-five dollars (\$25.00)”.

Sec. 2. G.S. 105-123(a) is amended by deleting the phrase “ten dollars (\$10.00)” in the second paragraph of that subsection and substituting the phrase “twenty-five dollars (\$25.00)”.

Sec. 3. Section 1 of this act is effective for franchise taxes due on or after March 15, 1987. Section 2 of this act shall become effective January 1, 1987, and shall apply to franchise tax returns of corporations that file articles of incorporation or applications for certificates of authority on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

S.B. 936

CHAPTER 855

AN ACT TO PROVIDE THAT WHEN A TRUST UNDER A WILL IS ADMINISTERED, NO COSTS ARE ASSESSED ON PERSONALTY RECEIVED IF THE ESTATE OF A DECEDENT HAD ALREADY PAID COSTS ON THE PERSONALTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-307(a) is amended by adding a new subdivision to read:

“(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of ten dollars (\$10.00) shall be assessed on the filing of each annual and final account.”

Sec. 2. This act is effective upon ratification and applies to personalty received by trusts under a will on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

S.B. 626

CHAPTER 856

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Becky G. Dobbins of Lee County is appointed to the North Carolina Manufactured Housing Board, for a term to expire on September 30, 1989. This is a categorical appointment for a manufactured home supplier. Clyde Lawson of Forsyth County is appointed to the North Carolina Manufactured Housing Board, for a term to expire on September 30, 1989. This is a categorical appointment for a set-up contractor.

Sec. 2. James H. Edwards of Caldwell County is appointed to the Private Protective Services Board for a term to expire on June 30, 1988.

Sec. 3. Appointments made under Section 1 of this act are for terms to begin on October 1, 1986. The appointment made under Section 2 of this act is for a term to begin on July 1, 1986.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 672

CHAPTER 857**AN ACT TO ALLOW ONSLOW COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.**

The General Assembly of North Carolina enacts:

Section 1. Levy of Tax. (a) The Board of Commissioners of Onslow County may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 2. Rate of Tax. The room occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar enterprise within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax.

Sec. 3. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) a business that offers to rent fewer than five units;
- (3) educational organizations; and
- (4) summer camps.

Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by Onslow County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association failing or refusing to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the tax imposed by this act or to make a return or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

Sec. 5. Collection of Tax. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect the three percent (3%) tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Onslow County. The tax levied pursuant to this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all affected businesses in Onslow County the necessary forms for filing returns and instructions to ensure the collection of the tax.

Sec. 6. Use of Taxes Collected. (a) Onslow County shall deposit the proceeds of the occupancy tax in the general fund of the county, to be used only to further the development of travel, tourism, and conventions in the county.

Sec. 7. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Onslow County, but no repeal of taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 1444

CHAPTER 858

AN ACT TO CLARIFY THE AUTHORITY OF HALIFAX COUNTY AND THE MUNICIPALITIES LOCATED THEREIN TO UNDERTAKE ECONOMIC DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-7.1(f) is amended by deleting the phrase "one-half of one percent (0.05%)" and substituting "one-half of one percent (0.5%)".

Sec. 2. Section 4 of Chapter 639 of the 1985 Session Laws is amended by inserting after the word "Hertford" the phrase ", Halifax,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 1573

CHAPTER 859

AN ACT TO AMEND THE LAW RELATING TO THE PROBATION SUPERVISION FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1343(a)(6) is rewritten to read:

"(6) Pay a supervision fee as specified in subsection (c1)."

Sec. 2. G.S. 15A-1343 is amended by adding a new subsection (c1) to read:

"(c1) Supervision Fee. Any person placed on supervised probation pursuant to subsection (a) shall pay a supervision fee of ten dollars (\$10.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon written motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund."

Sec. 3. The second sentence of G.S. 15A-1380.2(d) is amended by deleting the citation "G.S. 15A-1374(b)(6), (7), (8), (9), (10)" and substituting "G.S. 15A-1374(b)(6), (7), (8), (9), and (10) and G.S. 15A-1374(c)."

Sec. 4. G.S. 148-65.1 is amended by designating the existing section as subsection (a) and by adding a new subsection (b) to read:

"(b) Persons supervised in this State pursuant to this compact shall pay the supervision fee specified in G.S. 15A-1374(c). The fee shall be paid to the clerk of court in the county in which the person initially receives supervision services in this State."

Sec. 5. This act shall become effective October 1, 1986. Sections 1, 2, and 4 shall apply only to offenses committed on or after the effective date of this act. Section 3 applies to persons released on parole on or after the effective date of this act.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 1597

CHAPTER 860

AN ACT TO EXTEND THE BOUNDARIES OF THE BUCK SHOALS FIRE PROTECTION DISTRICT IN WILKES AND YADKIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. The area of the Buck Shoals Fire Protection District is hereby increased by including within its boundaries the following territory in Wilkes County:

BEGINNING, at point one (1) at the original district line of Buck Shoals Fire Protection District on SR#2400 at the Wilkes-Iredell County line, traveling in a Westward direction to a point two (2) on SR#2414 at the Wilkes-Iredell County line; Thence in a Northwestwardly to a point three (3) on SR#2412 1.85 miles west of its intersection with SR#2400; Thence in Northwestwardly direction to a point four (4) on SR#2418 at the Hunting Creek Bridge; Thence in a Northwestwardly direction to a point five (5) on SR#2419 at the Hunting Creek Bridge; Thence in a Northerly direction to a point six (6) at the end of SR#2434 and including the loop formed by SR#2425; Thence in a Northeastwardly direction to a point seven (7) on SR#2400 .3 mile from its intersection with highway 421 and at the Ronda Fire District on SR#2400; Thence following Ronda's Fire District to a point eight (8) on 421 at its intersection with SR#2402; Thence in a Northerly direction to a point nine (9) at the intersection of SR#2402 & SR#2303 excluding property that faces SR#2402 in Ronda's Fire District; Thence following Ronda's Fire District to a point ten (10) on SR#2313 at the Wilkes-Yadkin County lines. This includes all property from the above described to the original Buck Shoals Fire District.

Sec. 2. The area is further increased by including within the Fire District the following territory in Yadkin County:

BEGINNING at point eleven (11) at the Yadkin-Wilkes line .6 North of SR#1302; Thence West to point twelve (12) at the intersection of SR#1300 and SR#1303; Thence Southeast with SR#1303 to a point thirteen (13) at its intersection with SR#1316; Thence South on SR#1316 to new 421 to a point fourteen (14); Thence South .7 on SR#1112 to a point fifteen (15); Thence Southeast to a point sixteen (16) with the intersection of North Hunting Creek and SR#1103; Thence Southeasterly to a point seventeen (17) on SR#1119 .1 North of its intersection with SR#1118; Thence Southeasterly to a point eighteen (18) at SR#1102 .5 North of its intersection with SR#1100; Thence South with SR#1102 to a point nineteen (19) at its intersection with SR#1100; Thence East .4 to SR#1101 to a point twenty (20); Thence South on SR#1101 .4 to Iredell-Yadkin county line to a point twenty-one (21); Thence West with Iredell-Yadkin county line to its intersection with Wilkes county line to a point twenty-two (22). This includes all property from the above described to the original Buck Shoals Fire District.

Sec. 3. This act shall apply only to Wilkes and Yadkin Counties.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 1640

CHAPTER 861

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF CONCORD AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Concord is revised and consolidated to read:

"THE CHARTER OF THE CITY OF CONCORD.**"ARTICLE I.****"Incorporation, Corporate Powers And Boundaries.**

"Section 1.1. Incorporation. The City of Concord, North Carolina in the County of Cabarrus, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Concord', hereinafter at times referred to as the 'city'.

"Sec. 1.2. Powers. The City of Concord shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now or hereafter may be conferred, either expressly or by implication, upon the City of Concord specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits. The corporate limits of the City of Concord shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the city, and as the same may be altered from time to time in accordance with law. The official map of the city showing its current corporate boundaries, entitled 'Map of the City of Concord, North Carolina', shall be maintained in the office of the City Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the city shall be made.

"ARTICLE II.**"Mayor And Board of Aldermen.**

"Sec. 2.1. Governing Body. The Mayor and Board of Aldermen, elected and constituted as herein set forth, shall be the governing body of the city. On behalf of the city, and in conformity with applicable laws, the Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the city.

"Sec. 2.2. Mayor; term of office; duties. The Mayor shall be elected by and from the qualified voters of the city in the manner provided by Article III of this Charter to serve for a term of four years, or until his successor is elected and qualified. The Mayor shall be the official head of the city government and shall preside at all meetings of the Board. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the city.

"Sec. 2.3. Board of Aldermen; composition; terms of office. The Board of Aldermen shall be composed of seven members, each of whom shall be

elected by and from the qualified voters of the city for terms of four years each in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

“Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the Board of Aldermen shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor in the Mayor’s absence or disability. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

“ARTICLE III.

“Elections.

“Sec. 3.1. Regular municipal elections; conduct and method of election. Beginning in 1989, regular municipal elections shall be held in the city every four years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and Board of Aldermen shall be elected according to the partisan primary and election method of election, as set out in G.S. 163-291.

“Sec. 3.2. Election of the Mayor and Board of Aldermen. (a) The Mayor shall be nominated and elected by all the voters of the city voting at large.

(b) One member of the Board of Aldermen shall be nominated and elected by all the voters of the city voting at large. Six members of the Board of Aldermen shall reside in and represent the wards of the city, but shall be nominated and elected by all the voters of the city voting at large.

“Sec. 3.3. Wards; ward boundaries. (a) The city shall continue to be divided into six single-member wards, with the ward boundaries being drawn so that each ward includes, as nearly as possible, the same number of persons residing therein.

(b) The ward boundaries shall be those existing at the time of the ratification of this charter, as the same are set forth on an official map of the city. An official map, showing the current ward boundaries, shall be maintained permanently in the office of the City Clerk, and shall be available for public inspection.

(c) In accordance with State law, the Board of Aldermen shall be authorized to revise from time to time the ward boundaries of the city. Upon alteration of the ward boundaries pursuant to law, the Board shall cause the appropriate changes to be made in the official map.

“ARTICLE IV.

“Organization and Administration.

“Sec. 4.1. Form of government. Except as otherwise provided in this Article, the city shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

“Sec. 4.2. City Manager. The Board of Aldermen shall appoint a City Manager who shall be the chief administrator of city government, and who shall be responsible to the Board for the proper administration of the affairs of the city. The Manager shall be appointed on the basis of merit

only, and he shall serve at the pleasure of the Board. Although he need not be a resident at the time of his appointment, the Manager shall become a resident of the city after his appointment. In exercising his duties as chief administrator, the Manager shall have the following powers and duties:

(a) He shall appoint, suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the City Attorney, City Finance Director, Tax Collector, and City Clerk, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Board, except as otherwise provided by law.

(c) He shall attend all meetings of the Board and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the City Charter and the ordinances, resolutions and regulations of the Board are faithfully executed within the city.

(e) He shall prepare and submit the annual budget and capital program to the city.

(f) He shall annually submit to the Board and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year.

(g) He shall make any other reports that the Board may require concerning the operations of the city departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the Board.

“Sec. 4.3. City Attorney. The Board of Aldermen shall appoint a City Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the City Attorney to prosecute and defend suits against the city; to advise the Mayor, Board and other city officials with respect to the affairs of the city; to draft all legal documents relating to the affairs of the city; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the city may be concerned; to attend meetings of the Board; and to perform other duties required by law or as the Board may direct.

“Sec. 4.4. City Tax Collector. The Board of Aldermen shall appoint a City Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the city, subject to the General Statutes, the provisions of this charter and the ordinances of the city. The City Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

“Sec. 4.5. Finance Director. The Board of Aldermen shall appoint a Finance Director to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as may be required by the Board.

“Sec. 4.6. City Clerk. The Board of Aldermen shall appoint a City Clerk to give notice of meetings of the Board, keep a journal (minutes) of the

proceedings of the Board, be the custodian of all city records, and perform any other duties that may be required by law or the Board.

"Sec. 4.7. Organization of city government. Consistent with applicable State laws, the Board may establish other positions, departments, boards, agencies, and generally organize the city government in order to promote the orderly and efficient administration of the affairs of the city.

"ARTICLE V.

"Boards and Commissions.

"Chapter 1. Reserved.

"Chapter 2.

"Alcoholic Beverage Control Board.

"Sec. 5.11. Board established. There shall continue to be a board known as the Alcoholic Beverage Control Board of the City of Concord, which shall have and may exercise all of the powers and duties enumerated herein.

"Sec. 5.12. Composition of board. The Alcoholic Beverage Control Board shall be composed of a chairman and two other members who shall be appointed by the Board of Aldermen. The chairman and each member shall be well known for their character, ability and business acumen, and shall serve for staggered terms of three years each. Their successors, or any vacancy, shall be filled by appointment of the Board of Aldermen.

"Sec. 5.13. Powers and duties. The Alcoholic Beverage Control Board shall have all the powers and duties imposed by Chapter 18B of the General Statutes on city boards of alcoholic control, and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control the same as county boards of alcoholic control, as provided in Chapter 18B of the General Statutes; provided, no city alcoholic beverage control stores shall be located or operated within 450 feet of any school or church in the city. The Alcoholic Beverage Control Board and the operation of any city alcoholic beverage control store shall be subject to the provisions of Chapter 18B of the General Statutes, except to the extent which the same may be in conflict with the provisions of this Chapter.

"Sec. 5.14. Distribution of profits. Out of the net profits remaining after the payment of all costs and operating expenses, and after retaining a sufficient and proper working capital, the Board of Alcoholic Beverage Control shall distribute the net profits as follows: the first fifteen percent (15%) for law enforcement; of the remaining balance, twenty-five percent (25%) to Cabarrus County and the seventy-five percent (75%) to the City of Concord.

"Sec. 5.15. Expenditures for law enforcement. The funds allocated for law enforcement in Section 5.14 shall be expended by the Alcoholic Beverage Control Board for law enforcement. In the expenditure of such funds, the board shall employ one or more ABC officers to be appointed by and be directly responsible to the Board. The persons so appointed shall take the oath of office prescribed by law for peace officers and shall have the same powers and authority, both within the City of Concord and Cabarrus County, as other peace officers of the city and county, including the common law of hot pursuit as set forth for ABC officers in Chapter 18B of the General Statutes.

"Sec. 5.16. Law enforcement - joint agreement. With approval of the Board of Aldermen, the Alcoholic Beverage Control Board may enter into a joint undertaking with any unit or units of government, whereby ABC officers employed by the Board may exercise their power and authority outside the boundaries of Cabarrus County. When entering into such a joint undertaking, the Alcoholic Beverage Control Board shall execute a contract or agreement with the cooperating unit or units of government, and shall comply with the provisions of Part 1, Article 20, Chapter 160A of the General Statutes, relating to interlocal cooperation, or the provisions of G.S. 160A-288.

"Sec. 5.17 through 5.20 reserved.

"Chapter 3.

"Firefighter's Supplementary Pension Fund.

"Sec. 5.21. Fund created. There shall continue to be a supplementary pension fund for the Fire Department of the City of Concord, to be known as the 'Concord Firefighter's Supplementary Fund', hereinafter referred to as the 'Supplementary Pension Fund'. The fund shall be administered by a Board of six trustees composed of the Chief of the Fire Department of the city, two firefighters who shall be elected by a majority vote of the Chief and members of the Fire Department, the City's Finance Director, and two members of the Board of Aldermen designated by the Board upon recommendation of the Chief and members of the Fire Department. The members of the Board of Trustees shall be elected for a term of one year and shall hold office until their successors are elected and qualified.

"Sec. 5.22. Transfer of funds. All funds coming into the Firefighter's Relief Fund under G.S. 118-5 that will increase the fund to an amount in excess of five hundred dollars (\$500.00) shall be transferred immediately to the 'Supplemental Pension Fund' so as to leave in the Firefighter's Relief Fund an amount not greater than five hundred dollars (\$500.00) at any time.

"Sec. 5.23. Eligibility for benefits; retirement procedure.

(a) Any person who is a full-time paid member of the Concord Fire Department, as shown by the records of the city, shall be eligible for benefits from the 'Supplementary Pension Fund'; provided that no such person shall be eligible for benefits from the 'Supplementary Pension Fund' unless such person has 30 years' service in the Concord Fire Department or has been retired as a member of the Concord Fire Department under the Social Security Act, or any retirement system the city may participate in, or because of a disability. Any disability retirement shall be on a medical board's recommendation. The Board of Trustees shall designate a medical board composed of three physicians. In special or unusual cases, the Board of Trustees may employ one or more other physicians, if, in their opinion, the same shall be advisable or necessary. The medical board shall arrange for and make physical examinations and pass upon all medical examinations, all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the Board of Trustees its conclusion and recommendations upon the matters referred to it. Upon the application of a member for disability retirement,

he may be retired by the Board of Trustees not less than 30 days nor more than 90 days next following the date of filing application, provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

(b) Once each year during the first five years following retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the Board of Trustees may, and upon his application, shall require any disability member who has not yet attained the age of 60 years to undergo a medical examination, such examination to be made at the place of residence of the member, or other place mutually agreed upon, by a physician or physicians designated by the Board of Trustees. Should any disability member who has not yet attained the age of 60 years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such; and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Trustees.

(c) Should the medical board report and certify to the Board of Trustees that such disabled member is engaged in, or is able to engage in, a gainful occupation paying more than the difference between his retirement allowance and the average annual compensation and should the Board of Trustees concur in such report, then the amount of his pension shall be reduced to an amount which together with his pension and the amount earnable by him, shall equal the amount of his average annual compensation. Should his earning capacity be later changed, the amount of his pension may be further modified. Should he be restored to a full employment in the Concord Fire Department, or by other employer, at a salary equal to his compensation at the time of disability, his retirement shall cease. Should it be determined he is physically able to return to full employment in the Concord Fire Department before he has attained 60 years of age and he refuses employment, he forfeits all rights to a retirement pension. This Chapter does not modify or alter in any way the Worker's Compensation Laws of the State of North Carolina.

"Sec. 5.24. Retirement pension. Any full-time paid member of the Fire Department who retires or is retired under the provisions of this Chapter shall receive monthly for the remainder of his life from the 'Supplementary Pension Fund' an amount equal to two percent (2%) for each five years of service up to 30 years' service; after 30 years or more service, he shall be eligible to receive fourteen percent (14%) of his average monthly compensation. In no case shall the retirement pension exceed fourteen percent (14%) of his monthly compensation at the time of retirement.

"Sec. 5.25. Treasurer. The Finance Director of the City of Concord, as a member of the Board of Trustees of the 'Supplementary Pension Fund', shall be treasurer and custodian of the fund and shall pay the beneficiaries thereof on the first day of each and every month any monies in his possession that such beneficiaries may be entitled to under the provisions of this Chapter.

"Sec. 5.26. Bond required. The Finance Director of the City of Concord, as custodian of the 'Supplementary Pension Fund', shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina as surety in a sum equal to one and one-quarter times the maximum amount estimated by the Board of Trustees as likely to be in his possession as such custodian at any time within the fiscal year for which the bond is given. The condition of the bond shall be that the custodian shall faithfully receive, keep, disburse and account for, as herein provided, all funds and property coming into his hands as such custodian, and the premiums on the bond shall be paid out of the 'Supplementary Pension Fund'. This bond, in the discretion of the Board of Aldermen, may be combined with that required by G.S. 159-29.

"Sec. 5.27. Investment of funds. The custodian of the 'Supplementary Pension Fund' is authorized and directed to invest all monies coming into his possession belonging to the 'supplementary pension fund', except so much as the Board of Trustees from time to time determined is reasonably necessary for the prompt payment of claims and expenses, in such securities as the Board of Trustees shall select; provided, however, that such securities shall be limited to, and upon the same conditions as those enumerated in G.S. 159-30.

"Sec. 5.28. Gifts accepted. The Board of Trustees, as herein provided for, may, in its discretion, take and receive any gift, grant, bequest or devise or any real or personal property or other things of value for, and as, the property of the 'Supplementary Pension Fund', and hold and disburse and invest the same for the use of the fund in accordance with the purpose of this Chapter and the conditions attached to any such gift, grant, bequest or devise.

"Sec. 5.29. Inconsistent provisions. The provisions of Chapter 118 of the General Statutes of North Carolina creating a Firefighter's Relief Fund are repealed as to the City of Concord insofar, and only insofar, as the provisions are inconsistent with and contradictory to the provisions of this Chapter."

Sec. 2. The Board of Light and Water Commissioners for the City of Concord shall be dissolved. All powers and duties of said Board shall become powers and duties of the City of Concord. All real and personal property and all assets owned by the Board of Light and Water Commissioners shall be held under the name and ownership of the City of Concord.

Sec. 3. In order to effectuate the dissolution of the Board of Light and Water Commissioners, the Board of Aldermen of the City of Concord is hereby granted the authority to amend or restructure the City's budget ordinance, as well as the budget ordinance of the Board of Light and Water Commissioners for the City of Concord. All such actions by the Board of Aldermen prior to the ratification of this act relative to the enterprise accounts of the Board of Light and Water Commissioners are hereby ratified. The authority granted by this section shall expire on June 30, 1987.

Sec. 4. The purpose of this act is to revise the Charter of the City of Concord and to consolidate herein certain acts concerning the property, affairs, and government of the city. It is intended to continue without

interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 5. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Concord.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 6. The following act is repealed:

Chapter 744, Session Laws of 1977, except for Sections 5 and 6 of that act.

Sec. 7. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 8. All existing ordinances, resolutions and other provisions of the City of Concord not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 9. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 10. If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 11. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed, superseded or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed, superseded or recodified.

Sec. 12. Section 1 and Sections 4 through 12 of this act are effective upon ratification. Sections 2 and 3 are effective July 1, 1986.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 2095

CHAPTER 862

AN ACT TO AMEND THE NORTH CAROLINA REGIONAL RECIPROCAL BANKING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-210(13)b. is amended by adding the word "and" after the semicolon.

Sec. 2. G.S. 53-210(13)c. is amended by deleting "; and" and substituting ":",

Sec. 3. G.S. 53-210(13)d. is repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

S.B. 855

CHAPTER 863

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE ACT OF 1985, AND CONFORMING CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-571(4) is amended by deleting "G.S. 122-98.3", and substituting "G.S. 122C-421".

Sec. 2. G.S. 7A-647(2)c. is amended by adding the following immediately before the period at the end of the paragraph "unless prohibited by G.S. 122C-53(d)".

Sec. 3. G.S. 14-277(e) is amended by deleting "or Mental Health", and substituting "Area Mental Health, Mental Retardation, and Substance Abuse Authority,".

Sec. 4. G.S. 90-21.5(a) is amended in the second sentence by deleting "commitment to a mental institution or hospital for confinement or treatment of a mental condition", and substituting "or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-222".

Sec. 5. G.S. 105-164.14(c) is amended by deleting "area mental health boards (other than single-county boards) established pursuant to Article 2F of Chapter 122 of the General Statutes", and substituting "area mental health, mental retardation, and substance abuse authorities (other than single-county area authorities) established pursuant to Article 4 of Chapter 122C of the General Statutes".

Sec. 6. G.S. 108A-103(a) is amended by deleting "G.S. 122-8.1", and substituting "Article 3 of Chapter 122C of the General Statutes".

Sec. 7. G.S. 122C-3(20) is amended by deleting ", or an attorney-in-fact acting under a valid durable power of attorney that authorizes him to provide or consent to medical care and hospitalization for the principal".

Sec. 8. G.S. 122C-23(f) and G.S. 122C-24(a) are each amended by deleting "Chapter 150A", and substituting "Chapter 150B".

Sec. 9. G.S. 122C-24(b) is amended by deleting "G.S. 150A-34", and substituting "G.S. 150B-34".

Sec. 10. G.S. 122C-24(b) is further amended by deleting "G.S. 150A-36", and substituting "G.S. 150B-36".

Sec. 11. G.S. 122C-52(a) is amended by deleting "Confidential", and substituting "Except as provided in G.S. 132-5, confidential".

Sec. 12. The language in G.S. 122C-205(a)(5) beginning with "escapes or breaches" is not a part of G.S. 122C-205(a)(5), but is recodified as the concluding part of G.S. 122C-205(a).

Sec. 13. G.S. 122C-205(b)(2) is amended by deleting "county of residence", and substituting "county of commitment".

Sec. 14. The language in G.S. 122C-205(b)(4) beginning with “of the escape or breach” is not a part of G.S. 122C-205(b)(4), but is recodified as the concluding part of G.S. 122C-205(b).

Sec. 15. G.S. 122C-206 is amended by adding a new subsection to read:

“(c1) If a client described in subsections (b) or (c) of this section is to be transferred from one 24-hour facility to another and transportation is needed, the responsible professional at the original facility shall notify the clerk of court, and the clerk of court shall issue a custody order for transportation of the client as provided by G.S. 122C-251.”

Sec. 16. The first sentence of G.S. 122C-211(a) is amended by deleting “for the mentally ill or substance abusers”.

Sec. 17. G.S. 122C-261(d) is amended by adding the following immediately after the third sentence: “If the physician or eligible psychologist recommends outpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, he shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. If a physician or eligible psychologist recommends outpatient commitment, he shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center.”

Sec. 18. The last sentence of G.S. 122C-263(d)(2) is amended by inserting immediately after the word “Commission”, the words “in accordance with G.S. 143B-157(a)(1)a”.

Sec. 19. G.S. 122C-264(c) is amended by adding the following at the end: “G.S. 1A-1, Rule 6 shall not apply.”

Sec. 20. G.S. 122C-271(a)(1) is amended by deleting “treatment in order”, and substituting “treatment history, the respondent is in need of treatment in order”.

Sec. 21. G.S. 122C-271(b)(2) is amended by deleting “, or a combination of inpatient and outpatient commitment at both a 24-hour facility and an outpatient treatment physician or center,”.

Sec. 22. G.S. 122C-271(b)(2) is further amended by adding the following new language immediately after the second sentence: “An individual who is mentally ill and dangerous to himself or others may also be committed to a combination of inpatient and outpatient commitment at both a 24-hour facility and an outpatient treatment physician or center for a period not in excess of 90 days.”

Sec. 23. The first sentence of G.S. 122C-273(a) is amended by deleting “physician may prescribe or administer”, and substituting “physician may prescribe or administer, or the center may administer,”, and is further amended by deleting “If” at the beginning of the first sentence and substituting “Unless prohibited by Chapter 90 of the General Statutes, if”.

Sec. 24. The first sentence of G.S. 122C-273(a)(1) is amended by deleting “physician or his designee”, and substituting “physician, the physician’s designee, or the center”.

Sec. 25. The first sentence of G.S. 122C-273(a)(2) is amended by deleting “physician or his designee”, and substituting “physician, the physician’s designee, or the center”.

Sec. 26. The last sentence of G.S. 122C-273(a)(2) is amended by deleting “physician determines”, and substituting “physician or eligible psychologist determines”.

Sec. 27. G.S. 122C-284(b) is amended by adding the following at the end: “G.S. 1A-1, Rule 6 shall not apply.”

Sec. 28. The existing G. S. 122C-285 is designated as subsection (a) of that section, and a new subsection added to read:

“(b) If the 24-hour facility described in G.S. 122C-252 is the facility in which the first examination by a physician or eligible psychologist occurred and is the same facility in which the respondent is held, the second examination must occur not later than the following regular working day.”

Sec. 29. G.S. 122C-286(e) is amended by deleting “an area facility or a private facility”, and substituting “a facility”.

Sec. 30. The first sentence of G.S. 122C-286(g) is rewritten to read:

“A copy of all documents admitted into evidence and a transcript of the proceedings shall be furnished to the respondent on request by the clerk upon the direction of a district court judge.”

Sec. 31. Part 8 of Article 5 of Chapter 122C of the General Statutes is amended by adding a new section to read:

“§ 122C-286.1. *Venue of district court hearing when respondent held at a 24-hour facility pending hearing.*—(a) In all cases where the respondent is held at a 24-hour facility pending the district court hearing as provided in G.S. 122C-286, unless the respondent through counsel objects to the venue, the hearing shall be held in the county in which the facility is located. Upon objection to venue, the hearing shall be held in the county where the petition was initiated.

(b) An official of the facility shall immediately notify the clerk of superior court of the county in which the facility is located of a determination to hold the respondent pending hearing. That clerk shall request transmittal of all documents pertinent to the proceedings from the clerk of superior court where the proceedings were initiated. The requesting clerk shall assume all duties set forth in G.S. 122C-284. The requesting clerk shall appoint as counsel for indigent respondents the counsel provided for in G.S. 122C-286(d).”

Sec. 32. G.S. 122C-290(b) is amended by deleting “G.S. 122C-251 upon notice by the area authority”, and substituting “G.S. 122C-251 upon notice to the clerk of court by the area authority”.

Sec. 33. G.S. 143B-147(a)(1)a. is amended by deleting “any State facility as defined in G.S. 122C-3”, and substituting “a facility operated under the authority of G.S. 122C-181(a)”.

Sec. 34. This act shall become effective August 1, 1986.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

H.B. 2119

CHAPTER 864

AN ACT TO REPEAL CHAPTER 461 OF THE 1985 SESSION LAWS CONCERNING THE VENUS FLY TRAP PLANT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 461, 1985 Session Laws, is hereby repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

S.B. 1024

CHAPTER 865

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING OF A CERTAIN CAPITAL IMPROVEMENT PROJECT BY THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to authorize construction, by The University of North Carolina at Chapel Hill, of a capital improvement project described herein, and to authorize the financing of this capital improvement project through the issuance of bonds to be repaid from income from utilities sales to appropriated fund activities, and utility sales to other utilities consumers supported by receipts, gifts, grants, or other funds, or any combination of such funds. Prior to the execution of contracts for the projects authorized herein, the Director of the Budget, provided the Director of the Budget may consult with the Advisory Budget Commission, shall approve the method of funding the project.

Sec. 2. The project hereby authorized to be constructed and financed as provided in Section 1 of this act is the construction of an economically and environmentally more efficient power plant to service The University of North Carolina at Chapel Hill and North Carolina Memorial Hospital and supporting systems, as well as the construction of an addition to the North Chiller Plant presently in operation in Chapel Hill, the demolition of the current boilers, generator and assorted equipment, the replacement of asbestos and gilsulate insulation and piping, the installation of air pollution control equipment and other related construction and maintenance to the power plant in operation in Chapel Hill.

Sec. 3. For the purposes of contracting for the design, construction and financing of the project authorized in Section 1 of this act, The University of North Carolina shall be exempt from the requirements of G.S. 143-128 and G.S. 143-129 and may enter into combined contracts for the design of the project, combined contracts for the construction of the project or combined contracts for the design, construction and construction management of the project.

Sec. 4. For the purpose of financing the construction of the project authorized in Section 1 of this act, the Board of Governors of The University of North Carolina ("the Board") is authorized to issue, subject to the approval of the Director of the Budget, provided the Director of the Budget may consult with the Advisory Budget Commission, revenue

bonds of The University of North Carolina according to the procedures and under the terms mandated by G.S. 116-41.1 through 116-41.12, except as those terms are modified by this act.

The Board in the resolution authorizing the issuance of bonds under this act may provide for a pledge to the payment of such revenue bonds and the interest thereon of the revenue derived from the project and also for a pledge of the revenues derived from any system, facility, plant, works, instrumentalities or properties improved, bettered, or extended by The University of North Carolina in connection with The University of North Carolina at Chapel Hill, the revenues derived from any future improvements, betterments or extensions of the project, the revenues derived from utility sales to all utilities consumers which shall include but not be limited to the revenues derived from utility sales to the auxiliary enterprises, or any part thereof, the revenues derived from any appropriations for utilities by the General Assembly to either The University of North Carolina or The University of North Carolina at Chapel Hill or both or the revenues from the project and any or all of the revenues mentioned in this sentence, without regard to whether the operations involved are deemed governmental or proprietary, it being the purpose hereof to vest in the Board broad powers which shall be liberally construed. So long as any revenues of the University mentioned in this paragraph are pledged for the payment of the principal of or interest on any bonds issued hereunder, such revenues shall be deposited in a special fund and shall be applied and used only as provided in the resolution authorizing such bonds, subject, however, to any prior pledge or encumbrance thereof.

Sec. 5. The Director of the Budget, provided the Director of the Budget may consult with the Advisory Budget Commission, may, when in his opinion it is in the best interest of the State to do so, and upon the request of The University of North Carolina Board of Governors, authorize a decrease in the scope or a change in the method of funding of any project authorized by this act.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.B. 491

CHAPTER 866

AN ACT TO CLARIFY THAT THE 1983 REWRITE OF THE NORTH CAROLINA ELECTION CAMPAIGN FUND ACT WHICH ALLOWED DISBURSEMENTS TO ALL CANDIDATES ALLOWS DISBURSEMENTS TO ALL REGISTERED TREASURERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.42(d) is amended by adding the following immediately before the period at the end: "or under the Federal Election Campaign Act of 1971, Chapter 14 of Title 2, United States Code".

Sec. 2. This act shall become effective July 6, 1983.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.B. 1496

CHAPTER 867

AN ACT TO PROHIBIT HUNTING FROM ROADS AND TO REGULATE HUNTING ON PRIVATE LANDS IN PERQUIMANS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take, or kill any animal or bird on or from the right-of-way of any public road, street, highway, or thoroughfare.

Sec. 2. It is unlawful to hunt with, or possess a firearm or bow and arrow on another's land without the permission of the owner or lessee of the land.

Sec. 3. Violation of this act is a misdemeanor, punishable for a first conviction by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or by imprisonment not to exceed 30 days, and punishable for a subsequent conviction within three years by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), by imprisonment not to exceed 90 days, or by both.

Sec. 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by officers of the State Highway Patrol, by Alcohol Law Enforcement Agents, by local ABC officers and by other peace officers with general subject matter jurisdiction.

Sec. 5. This act applies only to Perquimans County.

Sec. 6. Chapter 213 of the 1983 Session Laws is repealed. Prosecutions for violations of Chapter 213 of the 1983 Session Laws occurring before September 1, 1986, are not abated or affected by this act, and Chapter 213 of the 1983 Session Laws remains applicable to those prosecutions.

Sec. 7. This act shall become effective September 1, 1986.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.B. 1616

CHAPTER 868

AN ACT TO REGULATE HUNTING IN CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt on the land of another without the permission of the owner or lessee of the land. If the land is owned or leased by a club, the president of the club shall issue the permission to hunt.

Sec. 2. It is unlawful to hunt with or possess any center-fire rifle on the land of another or to discharge any center-fire rifle on, over, or across the land of another unless the hunter has, on his person, the written permission of the owner or lessee of the land. The written permission shall be dated and may be valid for no more than one year.

This section shall not be interpreted to prohibit the mere transportation in or on a motor vehicle on the lands of another of an unloaded center-fire rifle.

Sec. 3. It is unlawful to hunt or to discharge any firearm or bow and arrow from, to, or across any State maintained road or right-of-way.

This section shall not be interpreted to prohibit the mere transportation in or on a motor vehicle of a firearm or bow and arrow on any State maintained road or right-of-way.

Sec. 4. Violation of this act is a misdemeanor, punishable for a first conviction by a fine of not to exceed fifty dollars (\$50.00), imprisonment not to exceed 30 days, or both, in the discretion of the court.

Sec. 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by officers of the State Highway Patrol, by Alcohol Law Enforcement Agents, and by other peace officers with general subject matter jurisdiction.

Sec. 6. This act applies only to Chowan County.

Sec. 7. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.B. 1655

CHAPTER 869**AN ACT TO PROHIBIT TAKING DEER WITH DOGS IN PART OF RICHMOND COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to take deer with dogs.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or imprisonment not to exceed 30 days, and punishable for a second or subsequent conviction within three years by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), by imprisonment not to exceed 90 days, or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act applies only to that part of Richmond County west of the Little River.

Sec. 5. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.B. 1368

CHAPTER 870**AN ACT TO ANNEX CERTAIN TERRITORY TO THE CORPORATE LIMITS OF THE TOWN OF HOT SPRINGS.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 584, Session Laws of 1953 is repealed.

Sec. 2. This act includes within the corporate limits of the Town of Hot Springs the territory removed from the corporate limits by Chapter 584, Session Laws of 1953. It does not remove from the corporate limits

of the Town any territory that may have been annexed since the passage of that act.

Sec. 3. This act shall become effective June 30, 1986.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

S.B. 908

CHAPTER 871

AN ACT TO AUTHORIZE THE CITY OF WILSON TO LET PUBLIC CONTRACTS FOR CONSTRUCTION OR REPAIR WORK OF FIFTY THOUSAND DOLLARS OR LESS, AND FOR THE PURCHASE OF APPARATUS, SUPPLIES, MATERIALS OR EQUIPMENT FOR TWENTY THOUSAND DOLLARS OR LESS PURSUANT TO INFORMAL BIDS UNDER G.S. 143-131.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129 is amended by deleting "thirty thousand dollars (\$30,000)", and substituting "fifty thousand dollars (\$50,000)".

Sec. 2. G.S. 143-129 is further amended by deleting "ten thousand dollars (\$10,000)", and substituting "twenty thousand dollars (\$20,000)".

Sec. 3. This act applies to the City of Wilson only, and only applies to the Electrical Distribution Department.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.B. 916

CHAPTER 872

AN ACT TO GIVE ROWAN COUNTY ANIMAL CONTROL OFFICERS THE POWER TO ISSUE CITATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 67-30 is amended by adding a new sentence to the end to read:

"An animal control officer may issue a citation under the provisions of G.S. 15A-302 for violations of laws enacted for the protection or control of animals."

Sec. 2. This act does not prevent Rowan County, in its discretion, from granting the power of arrest and other law enforcement authority to one or more of its animal control officers.

Sec. 3. This act applies only to Rowan County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.B. 919

CHAPTER 873

AN ACT TO AMEND THE CHARTER OF THE CITY OF STATESVILLE
CONCERNING THE DISTRIBUTION OF LIQUOR PROFITS.

The General Assembly of North Carolina enacts:

Section 1. Section 6.3 of the Charter of the City of Statesville, as found in Section 1 of Chapter 289 of the 1977 Session Laws, is amended by adding a new subdivision to read:

“(6) Notwithstanding subdivisions (1) through (5) of this section, the profits from the sales of spirituous liquor to mixed beverages permittees for liquor by the drink sales shall be turned over to the City of Statesville.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.B. 923

CHAPTER 874

AN ACT TO CLARIFY THE AUTHORITY OF RICHMOND COUNTY
AND THE MUNICIPALITIES LOCATED THEREIN TO UNDERTAKE
ECONOMIC DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 639 of the 1985 Session Laws is amended by inserting after the word “Hertford”, the phrase “, Richmond,”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.B. 941

CHAPTER 875

AN ACT TO PERMIT THE COUNTY OF CURRITUCK TO REGULATE
MOTOR VEHICLES OPERATION ON PUBLIC BEACHES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

“§ 153A-139.1. *Regulation of motor vehicles at beaches.*—(a) A county may by ordinance regulate, restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the governing body of the county on the foreshore, beach strand, and the barrier dune system. Violation of any ordinance adopted by the governing body pursuant to this section is a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not more than 30 days, or both in the discretion of the court.

(b) A county shall not prohibit the use of the specified vehicles from the foreshore, beach strand, and the barrier dune system by commercial

fishermen for commercial activities. Commercial fishermen, however, shall abide by all other regulations or restrictions duly enacted by counties pursuant to this section.

(c) Notwithstanding G.S. 153A-122, a city may not take any action to limit the applicability of any ordinance adopted pursuant to this section on land within the county that is also within the city limits.”

Sec. 2. This act applies to Currituck County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.B. 944

CHAPTER 876

AN ACT TO PERMIT THE CITY OF NEW BERN TO COLLECT AN ATTORNEY FEE INCURRED AS PART OF ORDERS FOR DEMOLITION OF UNFIT DWELLINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-443(6) is amended in the first sentence by adding immediately after the words “public officer”, the words “, and a reasonable attorney fee, actually incurred as a part of the cost of demolition of an unfit dwelling”.

Sec. 2. This act applies to the City of New Bern only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 377

CHAPTER 877

AN ACT TO BE KNOWN AS THE NORTH CAROLINA CONDOMINIUM ACT AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are amended by adding a new Chapter 47C as follows:

“ARTICLE 1.

“GENERAL PROVISIONS.

“§ 47C-1-101. *Short title.*—This act shall be known and may be cited as the North Carolina Condominium Act.

“§ 47C-1-102. *Applicability.*—(a) This act applies to all condominiums created within this State after the effective date of this act. Sections 47C-1-105 (Separate Titles and Taxation), 47C-1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 47C-1-107 (Eminent Domain), 47C-2-103 (Construction and Validity of Declaration and Bylaws), 47C-2-104 (Description of Units), 47C-3-102(a)(1) through (6) and (11) through (16) (Powers of Unit Owners’ Association), 47C-3-111 (Tort and Contract Liability), 47C-3-112 (Conveyance or Encumbrance of Common Elements), 47C-3-116 (Lien for Assessments), 47C-3-118 (Association

Records), and 47C-4-117 (effect of Violation on Rights of Action; Attorney's Fees), and Section 47C-1-103 (Definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this State before the effective date of this act; but those sections apply only with respect to events and circumstances occurring after the effective date of this act and do not invalidate existing provisions of the declarations, bylaws, or plats or plans of those condominiums.

(b) The provisions of Chapter 47A, the Unit Ownership Act, do not apply to condominiums created after the effective dates of this act and do not invalidate any amendment to the declaration, bylaws, and plats and plans of any condominium created before the effective date of this act if the amendment would be permitted by this act. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by Chapter 47A, the Unit Ownership Act. If the amendment grants to any person any rights, powers, or privileges permitted by this act, all correlative obligations, liabilities, and restrictions in this act also apply to that person.

(c) This act does not apply to condominiums or units located outside this State, but the public offering statement provisions (Sections 47C-4-102 through 47C-4-108) apply to all contracts for the dispositions thereof signed in this State by any party unless exempt under Section 47C-4-101(b).

“§ 47C-1-103. *Definitions.*—In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this act:

(1) ‘Affiliate of a declarant’ means any person who controls, is controlled by, or is under common control with a declarant. A person ‘controls’ a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting interests in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than twenty percent (20%) of the capital of the declarant. A person ‘is controlled by’ a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting interests in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than twenty percent (20%) of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

(2) ‘Allocated interests’ means the undivided interests in the common elements, the common expense liability, and votes in the association allocated to each unit.

(3) ‘Association’ or ‘unit owners’ associations’ means the unit owners’ associations organized under Section 47C-3-101.

(4) 'Common elements' means all portions of a condominium other than the units.

(5) 'Common expenses' means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(6) 'Common expense liability' means the liability for common expenses allocated to each unit pursuant to Section 47C-2-107.

(7) 'Condominium' means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(8) 'Conversion building' means a building that at any time before creation of the condominium was occupied wholly or partially by persons other than purchasers or by persons who occupy with the consent of purchasers.

(9) 'Declarant' means any person or group of persons acting in concert who (i) as part of a common promotional plan offers to dispose of his or its interest in a unit not previously disposed of or (ii) reserves or succeeds to any special declarant right.

(10) 'Declaration' means any instruments, however denominated, which create a condominium, and any amendments to those instruments.

(11) 'Development rights' means any right or combination of rights reserved by a declarant in the declaration to add real estate to a condominium; to create units, common elements, or limited common elements within a condominium; to subdivide units or convert units into common elements; or to withdraw real estate from a condominium.

(12) 'Dispose' or 'disposition' means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(13) 'Executive board' means the body, regardless of name, designated in the declaration to act on behalf of the association.

(14) 'Identifying number' means a symbol or address that identifies only one unit in a condominium.

(15) 'Leasehold condominium' means a condominium in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium or reduce its size.

(16) 'Limited common element' means a portion of the common elements allocated by the declaration or by operation of Section 47C-2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.

(17) 'Master association' means an organization described in Section 47C-2-120, whether or not it is also an association described in Section 47C-3-101.

(18) 'Offering' means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this State, is not an offering if the advertisement states that an offering may be made only

in compliance with the law of the jurisdiction in which the condominium is located.

(19) 'Person' means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(20) 'Purchaser' means any person, other than a declarant or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest (including renewal options) of less than five years, or (ii) as security for an obligation.

(21) 'Real estate' means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law, pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. 'Real estate' includes parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water.

(22) 'Residential purposes' means use for dwelling or recreational purposes, or both.

(23) 'Special declarant rights' means rights reserved for the benefit of a declarant to complete improvements indicated on plats and plans filed with the declaration (Section 47C-2-109); to exercise any development right (Section 47C-2-110); to maintain sales offices, management offices, signs advertising the condominium, and models (Section 47C-2-115); to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium (Section 47C-2-116); to make the condominium part of a larger condominium (Section 47C-2-121); or to appoint or remove any officer of the association or any executive board member during any period of declarant control (Section 47C-3-103(d)).

(24) 'Time share' means a 'time share' as defined in G.S. 93A-41(9).

(25) 'Unit' means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to Section 47C-2-105(a)(5).

(26) 'Unit owner' means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation.

(27) 'Lessee' means the party entitled to present possession of a leased unit whether lessee, sublessee or assignee.

"§ 47C-1-104. *Variation; power of attorney or proxy to declarant.*—(a) Except as specifically provided in specific sections of this act, the provisions of this act may not be varied by the declaration or bylaws.

(b) The provisions of this act may not be varied by agreement; however, after breach of a provision of this act, rights created hereunder may be knowingly waived in writing.

(c) If a declarant, in good faith, has attempted to comply with the requirements of this act and has substantially complied with the act, nonmaterial errors or omissions shall not be actionable.

(d) Notwithstanding any other provision of this act, a declarant may not act under a power of attorney or proxy or use any other device to evade the limitations or prohibitions of this act, the declaration, or the bylaws.

“§ 47C-1-105. *Separate titles and taxation.*—(a) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.

(b) If there is any unit owner other than a declarant, each unit must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no developmental rights.

(c) Any portion of the common elements for which the declarant has reserved any developmental right must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

(d) If there is no unit owner other than a declarant, the real estate comprising the condominium may be taxed and assessed in any manner provided by law.

“§ 47C-1-106. *Applicability of local ordinances, regulations, and building codes.*—A zoning, subdivision, or building code or other real estate use law, ordinance, or regulation may not prohibit the condominium form of ownership or impose any requirement upon a condominium which it would not impose upon a substantially similar development under a different form of ownership. Otherwise, no provision of this act invalidates or modifies any provision of any zoning, subdivision, or building code or other real estate use law, ordinance, or regulation. No local ordinance or regulation may require the recordation of a declaration prior to the date required by this act.

“§ 47C-1-107. *Eminent domain.*—(a) If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award must compensate the unit owner for his unit and its interest in the common elements, whether or not any common elements are acquired. Unless the condemnor acquires the right to use the unit's interest in common elements, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking exclusive of the unit taken, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and of its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, (1) that unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and (2) the portion of the allocated interests divested from the partially acquired unit is automatically reallocated to that unit and the remaining units in proportion to the

respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

(c) If part of the common elements is acquired by eminent domain, the portion of the award not payable to unit owners under subsection (a) must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be apportioned among the owners of the units to which that limited common element was allocated at the time of acquisition.

(d) The court decree shall be recorded in every county in which any portion of the condominium is located.

“§ 47C-1-108. *Supplemental general principles of law applicable.*—The principles of law and equity supplement the provisions of this act, except to the extent inconsistent with this act.

“§ 47C-1-109. *Inconsistent time share provisions.*—The provisions of this Chapter shall apply, so far as appropriate, to every time share program or project created within this State after the effective date of this act, except to the extent that specific statutory provisions in Chapter 93A are inconsistent with this Chapter, in which case the provisions of Chapter 93A shall prevail.

“ARTICLE 2.

“CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS.

“§ 47C-2-101. *Execution and recordation of declaration.*—(a) A declaration creating a condominium shall be executed in the same manner as a deed, shall be recorded in every county in which any portion of the condominium is located, and shall be indexed in the Grantee index in the name of the condominium and in the Grantor index in the name of each person executing the declaration.

(b) A declaration or an amendment to a declaration adding units to a condominium, may not be recorded unless all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by an architect licensed under the provisions of Chapter 83 of the General Statutes or an engineer registered under the provisions of Chapter 89C of the General Statutes.

“§ 47C-2-102. *Unit boundaries.*—Except as provided by the declaration:

(1) If walls, floors or ceilings are designated as boundaries of a unit, then all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit; and all other portions of such walls, floors, or ceilings are a part of the common elements.

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated exclusively to that unit, and any

portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit but located outside the unit's boundaries are limited common elements allocated exclusively to that unit.

"§ 47C-2-103. *Construction and validity of declaration and bylaws.*—(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration, bylaws, or rules and regulations adopted pursuant to Section 47C-3-102(a)(1).

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this act.

(d) Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this act. Whether a substantial failure to comply with this act impairs marketability shall be determined by the law of this State relating to marketability.

"§ 47C-2-104. *Description of units.*—A description of a condominium unit which sets forth the name of the condominium, the recording data for the declaration, and the identifying number of the unit or which otherwise complies with the general requirements of the laws of this State concerning description of real property is sufficient legal description of that unit and all rights, obligations, and interests appurtenant to that unit which were created by the declaration or bylaws.

"§ 47C-2-105. *Contents of declaration.*—(a) The declaration for a condominium must contain:

- (1) the name of the condominium, which must include the word 'condominium' or be followed by the words 'a condominium', and the name of the association;
- (2) the name of every county in which any part of the condominium is situated;
- (3) a legally sufficient description of the real estate included in the condominium;
- (4) a statement of the maximum number of units which the declarant reserves the right to create;
- (5) a description (by reference to the plats or plans described in G.S. 47C-2-109) of the boundaries of each unit created by the declaration, including the unit's identifying number;
- (6) a description of any limited common elements, other than those specified in subsections 47C-2-102(2) and (4), as provided in Section 47C-2-109(b)(7);
- (7) a description of any real estate (except real estate subject to development rights) which may be allocated subsequently as limited common elements, other than limited common elements

specified in subsections 47C-2-102(2) and (4), together with a statement that they may be so allocated;

- (8) a description of any development rights and other special declarant rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time limit within which each of those rights must be exercised;
- (9) if any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect, together with (i) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards, and (ii) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;
- (10) any other conditions or limitations under which the rights described in paragraph (8) may be exercised or will lapse;
- (11) an allocation to each unit of the allocated interests in the manner described in Section 47C-2-107;
- (12) any restrictions on use, occupancy, or alienation of the units;
- (13) the recording data for recorded easements and licenses appurtenant to or included in the condominium or to which any portion of the condominium is or may become subject by virtue of a reservation in the declaration; and
- (14) all matters required by Sections 47C-2-106, 47C-2-107, 47C-2-108, 47C-2-109, 47C-2-115, 47C-2-116, and 47C-3-103(d).

(b) The declaration may contain any other matters the declarant deems appropriate.

“§ 47C-2-106. *Leasehold condominiums.*—(a) Any lease, or a memorandum thereof, the expiration or termination of which may terminate the condominium or reduce its size shall be recorded. Every lessor of those leases must sign the declaration, and the declaration shall state:

- (1) where the complete lease may be inspected;
- (2) the date on which the lease is scheduled to expire;
- (3) a legally sufficient description of the real estate subject to the lease;
- (4) any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised or a statement that they do not have those rights;
- (5) any right of the unit owners to remove any improvements after the expiration or termination of the lease or a statement that they do not have those rights; and
- (6) any rights of the unit owners to renew the lease and the conditions of any renewal or a statement that they do not have those rights.

(b) After the declaration for a leasehold condominium is recorded, neither the lessor nor his successor in interest may terminate the leasehold interest of a unit owner who, after demand, makes timely payment of his share of the rent determined in proportion to his common element interest and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest is not affected by failure of any other person to pay rent or fulfill any other covenant under the lease.

(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

(d) If the expiration or termination of a lease decreases the number of units in a condominium, the allocated interests shall be reallocated in accordance with Section 47C-1-107(a) as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.

“§ 47C-2-107. *Allocation of common element, interests, votes, and common expense liabilities.*—(a) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association to each unit and state the formulas used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant.

(b) If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

(c) The declaration may provide: (i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; (ii) for cumulative voting only for the purpose of electing members of the executive board; and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this act nor may units constitute a class because they are owned by a declarant.

(d) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or 100 percent (100%) if stated as percentages. If the declaration allocates to each of the units a fraction or percentage of ownership of the common elements that results in an actual total of such fractions or percentages that is greater or less than the actual whole of such ownership, each unit's ownership of the common elements shall be automatically reallocated so that each unit is allocated the same fraction or percentage of ownership of the actual whole as that unit had of the actual total that was greater or less than the actual whole. The declarant or the association shall file an amendment to the declaration reflecting such reallocation which amendment need not be executed by any other party.

(e) The common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

“§ 47C-2-108. *Limited common elements.*—(a) Except for the limited common elements described in subsections 47C-2-102(2) and (4), the declaration shall specify to which unit or units each limited common element is allocated. That allocation may not be altered without the unanimous consent of the unit owners whose units are affected.

(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by all the unit owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment shall be recorded in the same manner as a deed in the names of the parties and the condominium.

(c) A common element not previously allocated as a limited common element may not be so allocated except by unanimous consent or pursuant to provisions in the declaration made in accordance with Section 47C-2-105(a)(7). All such allocations shall be made by amendments to the declaration and shall become effective in accordance with Section 47C-2-117(c).

“§ 47C-2-109. *Plats and plans.*—(a) The declarant shall file with the register of deeds in each county where the condominium is located the condominium’s plat or plan prepared in accordance with this section. The plat or plan shall be considered a part of the declaration but shall be recorded separately, and the declaration shall refer by number to the file where such plat or plan is recorded. Each plat or plan shall be kept by the register of deeds in a separate file, indexed in the same manner as a conveyance entitled to be recorded, numbered serially in the order of receipt, and designated ‘Condominium’ with the name of the building, if any, and shall contain a reference to the book and page numbers and date of the recording of the declaration. Each plat or plan must contain a certification by an architect licensed under the provisions of Chapter 83 of the General Statutes or an engineer registered under the provisions of Chapter 89C of the General Statutes that it contains all of the information required by this section.

(b) Each plat or plan or combination thereof must show:

- (1) the name and a survey or general schematic map of the entire condominium;
- (2) the location and dimensions of all real estate not subject to development rights or subject only to the development right to withdraw and the location and dimensions of all existing improvements within that real estate;
- (3) the location and dimensions of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;
- (4) the extent of any encroachments by or upon any portion of the condominium;

- (5) the location and dimensions of all easements having specific location and dimensions and serving or burdening any portion of the condominium;
- (6) the verified statement of the architect licensed under the provisions of Chapter 83 of the General Statutes or a engineer registered under the provisions of Chapter 89C of the General Statutes certifying that such plats or plans fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of the units, as built;
- (7) the locations and dimensions of limited common elements; however, parking spaces and the limited common elements described in subsections 47C-2-102(2) and (4) need not be shown, except for decks, stoops, porches, balconies, and patios;
- (8) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as 'leasehold real estate';
- (9) the distance between noncontiguous parcels of real estate comprising the condominium;
- (10) any unit in which the declarant has reserved the right to create additional units or common elements.

(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either 'MUST BE BUILT' or 'NEED NOT BE BUILT'.

(d) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b), and (c) or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.

(e) In order to be recorded, plats or plans filed shall:

- (1) be reproducible plats or plans on cloth, linen, film, or other permanent material and be submitted in that form; and
- (2) have an outside marginal size of not more than 21 inches by 30 inches nor less than eight and one-half inches by 11 inches, including one and one-half inches for binding on the left margin and a one-half inch border on each of the other sides. Where size of the buildings or suitable scale to assure legibility require, plats or plans may be placed on two or more sheets with appropriate match lines.

(f) The fee for recording each plat or plan sheet submitted shall be as prescribed by G.S. 161-10(a)(3).

"§ 47C-2-110. *Exercise of development rights.*—(a) To exercise any development right reserved under Section 47C-2-105(a)(8), the declarant shall record an amendment to the declaration (Section 47C-2-117) and comply with Section 47C-2-109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created and, except in the case of subdivision or conversion of units described in subsection (c), reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and,

in the case of limited common elements, designate the unit to which each is allocated to the extent required by Section 47C-2-108 (Limited Common Elements).

(b) Development rights may be reserved within any real estate added to the condominium if the amendment adding that real estate includes all matters required by, and is in compliance with, Section 47C-2-105 and, if a leasehold condominium, Section 47C-2-106 and also if the plats and plans include all matters required by Section 47C-2-109. This provision does not extend the limit on the exercise of developmental rights imposed by the declaration pursuant to Section 47C-2-105(a)(8).

(c) When a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements, or both:

- (1) if the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain; or
 - (2) if the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.
- (d) If the declaration provides pursuant to Section 47C-2-105(a)(8) that all or a portion of the real estate is subject to the development right of withdrawal:

- (1) if all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, no part of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and
- (2) if a portion or portions are subject to withdrawal, no part of a portion may be withdrawn after a unit in that portion has been conveyed to a purchaser.

“§ 47C-2-111. *Alterations of units.*—Subject to the provisions of the declaration and other provisions of law, a unit owner:

(1) may make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium;

(2) may not change the appearance of the common elements or the exterior appearance of a unit or any other portion of the condominium without permission of the association; and

(3) may, after acquiring an adjoining unit, remove or alter any intervening partition or create apertures therein, even if the partition is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

“§ 47C-2-112. *Relocation of boundaries between adjoining units.*—(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated upon application to the association by the owners of those units. Any such application to

the association must be in such form and contain such data as may be reasonably required by the association and be accompanied by a plat prepared by an architect licensed under the provisions of Chapter 83 of the General Statutes or an engineer registered under the provisions of Chapter 89C of the General Statutes detailing the relocation of the boundaries between the affected units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines within 30 days that the reallocations are unreasonable, the association, at the expense of the owners filing the application, shall prepare and record an amendment to the declaration that identifies the units involved, states the reallocations, is executed by those unit owners and the association, contains words of conveyance, and is indexed in the name of the grantor and the grantee by the register of deeds.

(b) The association, at the expense of the unit owners filing the application, shall prepare and record plats or plans necessary to show the altered boundaries between adjoining units and their dimensions and identifying numbers.

“§ 47C-2-113. *Subdivision of units.*—(a) If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the provisions of the declaration and other provisions of law, upon application of a unit owner to subdivide a unit, the association, at the expense of the unit owner, shall prepare, execute, and record an amendment to the declaration, including the plats and plans, subdividing that unit.

(b) The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

“§ 47C-2-114. *Easement for encroachments.*—(a) To the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists. The easement does not relieve a unit owner of liability in case of his willful misconduct nor relieve a declarant or any other person of liability for failure to adhere to the plats and plans.

(b) With respect to all condominiums created prior to the effective date of this act, the provisions of subsection (a) of this section shall be deemed to apply to such condominiums, unless an action asserting otherwise shall have been brought within six months from the effective date of this act.

“§ 47C-2-115. *Use for sales purposes.*—A declarant may maintain sales offices, management offices, and models in units or on common elements in the condominium only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location, and relocation thereof. Any sales office, management office, or model not designated a unit by the declaration is a common element, and if a declarant ceases to be a unit owner, he ceases to have any rights with regard thereto unless it is removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the

common elements advertising the condominium. The provisions of this section are subject to the provisions of other State law and to local ordinances.

“§ 47C-2-116. *Easement to facilitate exercise of special declarant rights.*—Subject to the provisions of the declaration, a declarant has such easements through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights whether arising under this act or reserved in the declaration.

“§ 47C-2-117. *Amendment of declaration.*—(a) Except in cases of amendments that may be executed by a declarant under Sections 47C-2-109(d) or 47C-2-110, the association under Sections 47C-1-107, 47C-1-106(d), 47C-2-112(a), or 47C-2-113, or certain unit owners under Sections 47C-2-108(b), 47C-2-112(a), 47C-2-113(b), or 47C-2-118(b), and except as limited by subsection (d), the declaration may be amended only by affirmative vote of or a written agreement signed by, unit owners of units to which at least sixty-seven percent (67%) of the votes in the association are allocated or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration must be recorded in every county in which any portion of the condominium is located and is effective only upon recordation. An amendment shall be indexed in the Grantee's index in the name of the condominium and the association and in the Grantor's index in the name of the parties executing the amendment.

(d) Except to the extent expressly permitted or required by other provisions of this act, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interest of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

(e) Amendments to the declaration required by this act to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

“§ 47C-2-118. *Termination of condominium.*—(a) Except in the case of a taking of all the units by eminent domain (Section 47C-1-107), a condominium may be terminated only by agreement of unit owners of units to which at least eighty percent (80%) of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses.

(b) An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless recorded before that date. A termination agreement and all

ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) In the case of a condominium containing only units having horizontal boundaries described in the declaration, a termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.

(d) In the case of a condominium containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the unit owners consent to the sale.

(e) The association, on behalf of the unit owners, may contract for the sale of real estate in the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate in the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lienholders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection (h). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for all assessments and other obligations imposed on unit owners by this act or the declaration.

(f) If the real estate constituting the condominium is not to be sold following termination, title to the common elements and, in a condominium containing only units having horizontal boundaries described in the declaration, title to all the real estate in the condominium, vests in the unit owners upon termination as tenants in common in proportion to their respective interests as provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.

(g) Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear. Following termination, creditors of the association holding liens on the units, which were recorded before termination, may enforce those liens in the same manner as any lienholder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(h) The respective interests of unit owners referred to in subsections (e), (f) and (g) are as follows:

- (1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market value of their units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which twenty-five percent (25%) of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements.
 - (2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination.
 - (i) Except as provided in subsection (j), foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable real estate, does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the condominium, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the condominium.
 - (j) If a lien or encumbrance against a portion of the real estate comprising the condominium has priority over the declaration, and the lien or encumbrance has not been released, the parties foreclosing the lien or encumbrance may upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the condominium.
- “§ 47C-2-120. *Master associations.*—(a) If the declaration for a condominium provides that any of the powers described in Section 47C-3-102 are to be exercised by or may be delegated to a profit or nonprofit corporation (or unincorporated association) which exercises those or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums, all provisions of this act applicable to unit owners' associations apply to any such corporation (or unincorporated association), except as modified by this section.
- (b) Unless a master association is acting in the capacity of an association described in Section 47C-3-101, it may exercise the powers set forth in Section 47C-3-102(a)(2) only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from those condominiums to the master association.

(c) If the declaration of any condominium provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

(d) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in Sections 47C-3-103, 47C-3-108, 47C-3-109, and 47C-3-110 apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this act.

(e) Notwithstanding the provisions of Section 47C-3-103(f) with respect to the election of the executive board of an association by all unit owners after the period of declarant control ends and even if a master association is also an association described in Section 47C-3-101, the certificate of incorporation or other instrument creating the master association and the declaration of each condominium, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:

- (1) All unit owners of all condominiums subject to the master association may elect all members of that executive board.
- (2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board.
- (3) All unit owners of each condominium subject to the master association may elect specified members of that executive board.
- (4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board.

“§ 47C-2-121. *Merger or consolidation of condominiums.*—(a) Any two or more condominiums may, by agreement of the unit owners as provided in subsection (b), be merged or consolidated into a single condominium. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium shall be, for all purposes, the legal successor of all of the pre-existing condominiums, and the operations and activities of all associations of the pre-existing condominiums shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets and liabilities of all pre-existing associations.

(b) An agreement of two or more condominiums to merge or consolidate pursuant to subsection (a) must be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the pre-existing condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate that condominium. Any such agreement must be executed in the same manner as a deed and recorded in every county in which a portion of the condominium is located and is not effective until recorded.

(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the

units of the resultant condominium either (i) by stating such reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall allocated interests of the new condominium which are allocated to all of the units comprising each of the pre-existing condominiums and providing that the portion of such percentages allocated to each unit formerly comprising a part of such pre-existing condominium shall be equal to the percentages of allocated interests allocated to such unit by the declaration of the pre-existing condominiums.

“ARTICLE 3.

“MANAGEMENT OF THE CONDOMINIUM.

“§ 47C-3-101. *Organization of unit owners' association.*—A unit owners' association shall be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times shall consist exclusively of all the unit owners, or following termination of the condominium, of all persons entitled to distributions of proceeds under Section 47C-2-118. The association shall be organized as a profit or nonprofit corporation or as an unincorporated association.

“§ 47C-3-102. *Powers of unit owners' association.*—(a) Subject to the provisions of the declaration, the association, even if unincorporated, may:

- (1) adopt and amend bylaws and rules and regulations;
- (2) adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners;
- (3) hire and terminate managing agents and other employees, agents, and independent contractors;
- (4) institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the condominium;
- (5) make contracts and incur liabilities;
- (6) regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) cause additional improvements to be made as a part of the common elements;
- (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to Section 47C-3-112;
- (9) grant easements, leases, licenses, and concessions through or over the common elements;
- (10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements described in subsections 47C-2-102(2) and (4) and for services provided to unit owners;
- (11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines not to exceed one hundred fifty dollars (\$150.00) (Section 47C-3-107A) for violations of the declaration, bylaws, and rules and regulations of the association;

- (12) impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by Section 47C-4-109, or statements of unpaid assessments;
- (13) provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees and agents;
- (14) assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;
- (15) exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and
- (16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a), the declaration may not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.

“§ 47C-3-103. *Executive board members and officers.*—(a) Except as provided in the declaration, the bylaws, or subsection (b) or other provisions of this act, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board shall be deemed to stand in a fiduciary relationship to the association and the unit owners and shall discharge their duties in good faith, and with that diligence and care which ordinarily prudent men would exercise under similar circumstances in like positions.

(b) The executive board may not act on behalf of the association to amend the declaration (Section 47C-2-117), to terminate the condominium (Section 47C-2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (Section 47C-3-103(f)), but the executive board may fill vacancies in its membership for the unexpired portion of any term. Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by at least sixty-seven percent (67%) vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than members appointed by the declarant.

(c) Within 30 days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the unit owners or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

(d) Subject to subsection (e), the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units (including units which may be created pursuant to special declarant rights) to unit owners other than a declarant; (ii) two years after all declarants have ceased to offer units for sale in the ordinary course of business; or (iii) two years after any development right to add new units was last exercised. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(e) Not later than 60 days after conveyance of twenty-five percent (25%) of the units (including units which may be created pursuant to special rights) to unit owners other than a declarant, at least one member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units (including units which may be created pursuant to special declarant rights) to unit owners other than a declarant, not less than thirty-three percent (33%) of the members of the executive board shall be elected by unit owners other than the declarant.

(f) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom must be unit owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

“§ 47C-3-104. *Transfer of special declarant rights.*—(a) No special declarant right (Section 47C-1-103(23)) created or reserved under this act may be transferred except by an instrument evidencing the transfer recorded in every county in which any portion of the condominium is located. The instrument is not effective unless executed by the transferee.

(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

- (1) A transferor is not relieved of any obligation or liability arising before the transfer, including, but not limited to, liability or obligations relating to warranties. Lack of privity does not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor.
- (2) If the successor to any special declarant right is an affiliate of a declarant (Section 47C-1-103(1)), the transferor is jointly and severally liable with the successor for any obligation or liability of the successor which relates to the condominium.
- (3) If a transferor retains any special declarant right, but transfers other special declarant rights to a successor who is not an affiliate

of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this act or by the declaration relating to the retained special declarant rights and arising after the transfer.

- (4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) Unless otherwise provided in a mortgage instrument or deed of trust, in case of foreclosure of a mortgage, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under Bankruptcy Code or receivership proceedings, of any units owned by a declarant, or real estate in a condominium subject to development rights, a person acquiring title to all the real estate being foreclosed or sold, but only upon his request, succeeds to all special declarant rights related to that real estate held by that declarant, or only to any rights reserved in the declaration and held by that declarant to maintain models, sales offices and signs. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.

(d) Upon foreclosure, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under Bankruptcy Code or receivership proceedings, of all units and other real estate in a condominium owned by a declarant the declarant ceases to have any special declarant rights.

(e) The liabilities and obligations of persons who succeed to special declarant rights are as follows:

- (1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor related to the condominium.
- (2) A successor to any special declarant right, other than a successor described in paragraphs (3) and (4) who is not an affiliate of a declarant, is subject to all obligations and liabilities:
 - a. on a declarant which relate to his exercise or nonexercise of special declarant rights; or
 - b. on his transferor, other than:
 - (i) misrepresentations by any prior declarant;
 - (ii) warranty obligations on improvements made by any previous declarant, or made before the condominium was created;
 - (iii) breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or
 - (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.
- (3) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs (Section 47C-2-115), if he is not an affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement, and any liability arising as a result thereof.
- (4) A successor to all special declarant rights held by his transferor who is not an affiliate of that declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a

judgment or instrument conveying title to units under subsection (c), may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than the right held by his transferor to control the executive board in accordance with the provisions of Section 47C-3-103(d) for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under Section 47C-3-103(d).

“§ 47C-3-105. *Termination of contracts and leases of declarant.*—If entered into by or on behalf of the association before the executive board elected by the unit owners pursuant to Section 47C-3-103(f) takes office, (1) any management contract, employment contract, or lease of recreational or parking areas or facilities, (2) any other contract or lease between the association and a declarant or an affiliate of a declarant, or (3) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing may be terminated without penalty by the association at any time after the executive board elected by the unit owners pursuant to Section 47C-3-103(f) takes office upon not less than 90 days' notice to the other party. Notice of the substance of the provisions of this section shall be set out in each contract entered into by or on behalf of the association before the executive board elected by the unit owners pursuant to Section 47C-3-103(f) takes office. Failure of the contract to contain such a provision shall not effect the rights of the association under this section. This section does not apply to any lease the termination of which would terminate the condominium or reduce its size, unless the real estate subject to that lease was included in the condominium for the purpose of avoiding the right of the association to terminate a lease under this section.

“§ 47C-3-106. *Bylaws.*—(a) The bylaws of the association shall provide for:

- (1) the number of members of the executive board and the titles of the officers of the association;
 - (2) election by the executive board of the officers of the association;
 - (3) the qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;
 - (4) which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;
 - (5) which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and
 - (6) the method of amending the bylaws.
- (b) any other matters the association deems necessary or appropriate.

“§ 47C-3-107. *Upkeep; damages; assessments for damages, fines.*—(a) Except as provided in Section 47C-3-113(h), the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the unit owners as necessary to recover the costs of such maintenance, repair, or replacement except that the cost of maintenance, repair or replacement of a limited common element shall be assessed as provided in Section 47C-3-115(b). Each unit owner is responsible for maintenance, repair and replacement of his unit. Each unit owner shall afford to the association and when necessary to another unit owner access through his unit reasonably necessary for any such maintenance, repair or replacement activity.

(b) If damage, for which a unit owner is legally responsible and which is not covered by insurance provided by the association pursuant to Section 47C-3-113 is inflicted on any common element, the association may direct such unit owner to repair such damage or the association may itself cause the repairs to be made and recover the costs thereof from the responsible unit owner.

(c) If damage is inflicted on any unit by an agent of the association in the scope of his activities as such agent, the association is liable to repair such damage or to reimburse the unit owner for the cost of repairing such damages. The association shall also be liable for any losses to the unit owner.

(d) The bylaws of the association may in cases when the claim under subsection (b) or (c) is five hundred dollars (\$500.00) or less provide for hearings before an adjudicatory panel to determine if a unit owner is responsible for damages to any common element or whether the association is responsible for damages to any unit. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess a liability for each damage incident not in excess of five hundred dollars (\$500.00) against each unit owner charged or against the association. Liabilities of unit owners so assessed shall be assessments secured by lien under Section 47C-3-116. Liabilities of the association may be offset by the unit owner against sums owing the association and if so offset shall reduce the amount of any lien of the association against the unit at issue.

(e) The declarant alone is liable for maintenance, repair and all other expenses in connection with real estate subject to development rights.

“§ 47C-3-107A. *Charges for late payments, fines.*—The bylaws of the association may provide for a hearing before an adjudicatory panel to determine if a unit owner should be fined not to exceed one hundred fifty dollars (\$150.00) for a violation of the declaration, bylaws or rules and regulations of the association. Such panel shall accord to the party charged with the violation notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. Such a fine shall be an assessment secured by lien under Section 47C-3-116.

“§ 47C-3-108. *Meetings.*—A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by unit owners having twenty percent (20%) or any lower percentage specified in the bylaws of

the votes in the association. Not less than 10 nor more than 50 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

“§ 47C-3-109. *Quorums*.—(a) Unless the bylaws provide otherwise, a quorum is deemed present throughout any meeting of the association if persons entitled to cast twenty percent (20%) of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast fifty percent (50%) of the votes on that board are present at the beginning of the meeting.

“§ 47C-3-110. *Voting; proxies*.—(a) If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless the declaration or bylaws expressly provides otherwise. Majority agreement is conclusively presumed if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(b) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by written notice of revocation delivered to the person presiding over a meeting of the association. A proxy is void if it is not dated. A proxy terminates one year after its date, unless it specifies a shorter term.

(c) If the declaration requires that votes on specified matters affecting the condominium be cast by lessees rather than unit owners of leased units: (i) the provisions of subsection (a) and (b) apply to lessees as if they were unit owners; (ii) unit owners who have leased their units to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. Unit owners must also be given notice, in the manner provided in Section 47C-3-108, of all meetings at which lessees may be entitled to vote.

(d) No votes allocated to a unit owned by the association may be cast.

(e) The declaration may provide that on specified issues only a defined subgroup of unit owners may vote provided:

- (1) the issue being voted on is of special interest solely to members of the subgroup; and

- (2) all except *de minimis* costs that will be incurred based on the vote taken will be assessed solely against those unit owners entitled to vote.

(f) For purposes of subdivision (e)(1) above an issue to be voted on is not of special interest solely to a subgroup if it substantially affects the overall appearance of the condominium or substantially affects living conditions of unit owners not included in the voting subgroup.

“§ 47C-3-111. *Tort and contract liability.*—(a) Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain.

(b) An action alleging a wrong done by the association must be brought against the association and not against a unit owner.

(c) If an action is brought against the association for a wrong which occurred during any period of declarant control, and if the association gives the declarant who then controlled the association reasonable notice of and an opportunity to defend against the action, such declarant is liable to the association: (1) for all tort losses not covered by insurance carried by the association suffered by the association or that unit owner, and (2) for all losses which the association would not have incurred but for a breach of contract. Nothing in this subsection shall be construed to impose strict or absolute liability upon the declarant for wrongs or actions which occurred during the period of declarant control.

(d) In any case where the declarant is liable to the association under this section, the declarant is also liable for all litigation expenses, including reasonable attorneys' fees, incurred by the association. Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates. A unit owner is not precluded from bringing an action contemplated by this section because he is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by Section 47C-3-117 (Other Liens Affecting the Condominium).

“§ 47C-3-112. *Conveyance or encumbrance of common elements.*—(a) Portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least eighty percent (80%) of the votes in the association, including eighty percent (80%) of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; provided, that all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Distribution of the proceeds of the sale of a limited common element shall be as provided by agreement between the unit owners to which it is allocated and the association. Proceeds of the sale or financing of a common element (other than a limited common element) shall be an asset of the association.

(b) An agreement to convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite

number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) The association, on behalf of the unit owners, may contract to convey common elements, or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements, unless made pursuant to this section, is void.

(e) A conveyance or encumbrance of common elements pursuant to this section shall not deprive any unit of its rights of access and support.

“§ 47C-3-113. *Insurance.*—(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent available:

- (1) property insurance on the common elements and units insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and
- (2) liability insurance in reasonable amounts, covering all occurrences commonly insured against death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) The insurance maintained under subdivision (a)(1) need not include improvements and betterments installed by unit owners.

(c) If the insurance described in subsection (a) is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners.

(d) Insurance policies carried pursuant to subsection (a) must provide that:

- (1) each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;
- (2) the insurer waives its right to subrogation under the policy against any unit owner or members of his household;
- (3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will preclude recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(e) Any loss covered by the property policy under subsections (a)(1) and (b) shall be adjusted with the association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and lienholders as their interests may appear. Subject to the provisions of subsection (h), the proceeds shall be disbursed first for the repair or restoration of the damaged property, and unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit owner and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

(h) Any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless (1) the condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the unit owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of owners of units not to be rebuilt or owners assigned to limited common elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, (2) the insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated or to lienholders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the unit owners or lienholders, as their interest may appear, in proportion to their common element interest. If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under Section 47C-1-107(a), and the association promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, Section

47C-2-118 governs the distribution of insurance proceeds if the condominium is terminated.

(i) The provisions of this section may be varied or waived in the case of a condominium all of whose units are restricted to nonresidential use.

“§ 47C-3-114. *Surplus funds.*—Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provisions for common expenses and any prepayment of reserves must be paid to the unit owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.

“§ 47C-3-115. *Assessments for common expense.*—(a) Until the association makes a common expense assessment, the declarant shall pay all the common expenses. After any assessment has been made by the association, assessments thereafter must be made at least annually by the association.

(b) Except for assessments under subsections (c), (d), and (e), all common expenses must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to Section 47C-2-107(a). Any past due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding eighteen percent (18%) per year.

(c) To the extent required by the declaration:

- (1) any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;
- (2) any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and
- (3) the costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

(d) Assessments to pay a judgment against the association (Section 47C-3-117(a)) may be made only against the units in the condominium at the time the judgment was entered, in proportion to their common expense liabilities.

(e) If any common expense is caused by the misconduct of any unit owner, the association may assess that expense exclusively against his unit.

(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

“§ 47C-3-116. *Lien for assessments.*—(a) Any assessment levied against a unit remaining unpaid for a period of 30 days or longer shall constitute a lien on that unit when filed of record in the office of the clerk of superior court of the county in which the unit is located in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes. The association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Unless the declaration otherwise provides, fees, charges, late

charges, fines, and interest charged pursuant to Section 47C-3-102(10), (11), and (12), Section 47C-3-107(d), and 47C-3-107A, are enforceable as assessments under this section.

(b) The lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the unit) recorded before the docketing of the lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing thereof in the office of the clerk of superior court.

(d) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree or order in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a unit, obtains title to the unit as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such unit which became due prior to acquisition of title to such unit by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners including such purchaser, and its heirs, successors and assigns.

"§ 47C-3-117. *Other liens affecting the condominium.*—(a) A judgment for money against the association is not a lien on the common elements, but if docketed is a lien in favor of the judgment lienholder against all of the units in the condominium at the time the judgment was entered. No other property of a unit owner is subject to the claims of creditors of the association.

(b) Notwithstanding the provisions of subsection (a), if the association has granted a security interest in the common elements to a creditor of the association pursuant to Section 47C-3-112, the holder of that security interest must exercise its right against the common elements before its judgment lien on any unit may be enforced.

(c) Whether perfected before or after the creation of the condominium, if a lien other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the condominium, becomes effective against two or more units, the unit owner of an affected unit may pay the lienholder the amount of the lien attributable to his unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit

owner's unit for any portion of the common expenses incurred in connection with that lien.

(d) A judgment against the association shall be indexed in the name of the condominium and the association and, if so indexed, is notice of the lien against the units.

"§ 47C-3-118. *Association records.*—The association shall keep financial records sufficiently detailed to enable the association to comply with this act. All financial and other records shall be made reasonably available for examination by any unit owner and his authorized agents.

"§ 47C-3-119. *Association as trustee.*—With respect to a third person dealing with the association in the association's capacity as a trustee under Section 47C-2-118 following termination or Section 47C-3-113 for insurance proceeds, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers and a third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as such trustee.

"ARTICLE 4.

"PROTECTION OF PURCHASERS.

"§ 47C-4-101. *Applicability; waiver.*—(a) This Article applies to all units subject to this act, except as provided in subsection (b) or as modified or waived by agreement of purchasers of units in a condominium in which all units are restricted to nonresidential use.

(b) Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of a disposition which is:

- (1) gratuitous;
- (2) pursuant to court order;
- (3) by a government or governmental agency;
- (4) by foreclosure or deed in lieu of foreclosure;
- (5) to a person in the business of selling real estate who intends to offer those units to purchasers; or
- (6) subject to cancellation at any time for any reason by the purchasers without penalty.

"§ 47C-4-102. *Liability for public offering statement requirements.*—(a) Except as provided in subsection (b), a declarant must, prior to the offering of any interest in a unit to the public, prepare a public offering statement conforming to the requirements of Sections 47C-4-103, 47C-4-104, 47C-4-105, and 47C-4-106.

(b) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant or to a person in the business of selling real estate who intends to offer units in the condominium for his own account. In the event of any such transfer, the transferor must provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a).

(c) Any declarant or other person in the business of selling real estate who offers a unit for his own account to a purchaser shall deliver a public offering statement in the manner prescribed in Section 47C-4-108(a). The person who prepared all or a part of or delivered the public offering statement is subject to 47C-4-117 for any false or misleading statement set forth therein or for any omission of material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant did not prepare any part of or deliver a public offering statement, he is not liable for any false or misleading statement set forth therein or for any omission of material fact therefrom unless he had actual knowledge of the statement or omission. A declarant, who has transferred responsibility for preparation of all or a part of the public offering statement under subsection (b), shall be liable when a false or misleading statement in the public offering statement prepared by another results from the declarant's failure to provide the information required in subsection (b).

(d) If a unit is a part of a condominium and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of Sections 47C-4-103, 47C-4-104, 47C-4-105, and 47C-4-106 as those requirements relate to all real estate regimes in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements.

“§ 47C-4-103. *Public offering statement; general provisions.*—(a) A public offering statement must contain or fully and accurately disclose:

- (1) the name and principal address of the declarant and of the condominium;
- (2) a general description of the condominium, including to the extent possible, the types, number, and declarant's schedule of commencement and completion of construction of buildings and amenities which declarant anticipates including as part of the condominium;
- (3) the number of units in the condominium;
- (4) copies of the recorded or proposed declaration (other than the plats and plans) and any other recorded covenants, conditions, restrictions and reservations affecting the condominium; the bylaws, and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing, and copies of or a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under Section 47C-3-105;
- (5) any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:

- (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;
 - (ii) a statement of any other reserves;
 - (iii) the projected common expense assessment by category of expenditures for the association; and
 - (iv) the projected monthly common expense assessment for each type of unit;
- (6) any services that the declarant provides or expenses that he pays which are not reflected in the budget and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;
 - (7) any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;
 - (8) a description of any known or recorded liens, encumbrances or defects affecting the title to the condominium;
 - (9) the terms and limitations of any warranties provided by the declarant;
 - (10) a statement that the purchaser must receive a public offering statement before signing a contract for purchase and that no conveyance can occur until seven calendar days following the signing of a contract for purchase; and that the purchaser has the absolute right to cancel the contract during the seven calendar days period;
 - (11) a statement of any known or recorded unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the condominium of which a declarant has actual knowledge;
 - (12) a statement that any deposit made in connection with the purchase of a unit will be held in an escrow account pursuant to Section 47C-4-108, together with the name and address of the escrow agent;
 - (13) any restraints on alienation of any portion of the condominium;
 - (14) a description of the insurance coverage provided for the benefit of unit owners;
 - (15) any current or known future fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium;
 - (16) the extent to which financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to Section 47C-4-119;
 - (17) a brief narrative description of any existing zoning and other land use requirements governing the condominium; and
 - (18) a statement that any common element may be alienated or conveyed in accordance with Section 47C-3-112.
- (b) A declarant promptly shall amend the public offering statement to report any material change in the information required by this section and

provide a copy of any such material changes to any purchaser who has executed a contract. If any material change is made in a proposed declaration after a contract for purchase of a unit has been signed but before conveyance, the purchaser may rescind the contract within seven days after receipt of the notice of the change.

“§ 47C-4-104. *Same; condominiums subject to developmental rights.*—If the declaration provides that a condominium is subject to any development rights reserved by the declarant, the public offering statement shall disclose, in addition to the information required by Section 47C-4-103:

(1) the maximum number of units, and the maximum number of units per acre, that may be created;

(2) how many or what percentage of the units which may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions;

(3) if any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the real estate areas and the maximum percentage of the floor areas of all units that may be created therein that are not restricted exclusively to residential use;

(4) a brief narrative description of any development rights and of any conditions relating to or limitations upon the exercise of development rights;

(5) the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right;

(6) the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the condominium will be compatible with existing buildings and improvements in the condominium in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;

(7) general descriptions of all other improvements that may be made and limited common elements that may be created within any part of the condominium pursuant to any development right, or a statement that no assurances are made in that regard;

(8) any limitations as to the locations of any building or other improvement that may be made within any part of the condominium pursuant to any development right, or a statement that no assurances are made in that regard;

(9) a statement that any limited common elements created pursuant to any development right will be of the same general types and sizes as the limited common elements within other parts of the condominium, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

(10) a statement that the proportion of limited common elements to units created pursuant to any development right will be approximately equal to the proportion existing within other parts of the condominium, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;

(11) a statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to any units created pursuant

to any development right, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and

(12) a statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.

“§ 47C-4-105. *Same; time share.*—(a) If the declaration provides that ownership or occupancy of any units are or may be owned in time shares, the public offering statement shall disclose, in addition to the information required by Section 47C-4-103:

- (1) the number and identity of units in which time shares may be created;
- (2) the total number of time shares that may be created;
- (3) the minimum duration of any time shares which may be created; and
- (4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in Section 47C-3-116.

(b) The provisions of subsection (a) apply to all purchasers of units in the condominium. In addition, the purchaser of time shares shall receive the information required by G.S. 93A-44.

“§ 47C-4-106. *Conversion buildings.*—Condominiums containing conversion buildings shall be subject to the provisions of Article 2 of Chapter 47A.

“§ 47C-4-107. *Same; condominium securities.*—(a) If an interest in a condominium is registered with the Securities and Exchange Commission of the United States, a declarant satisfies the requirements relating to the preparation of a public offering statement of this act if he delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission to the extent such statement provides the information required by Sections 47C-4-103, 47C-4-104, 47C-4-105 and 47C-4-106.

(b) The North Carolina Securities Act, Chapter 78A, shall apply to condominiums deemed to be investment contracts or to other securities offered with or incident to a condominium. In the event of such applicability of the North Carolina Securities Act, any real estate broker or salesman registered under Article 1 of Chapter 93A shall not be subject to the provisions of G.S. 78A-36. The exemption provided by the preceding sentence shall not apply to any person who is required to register with the Securities Exchange Commission as a broker or dealer under the Securities and Exchange Act of 1934.

“§ 47C-4-108. *Purchaser's right to cancel.*—(a) A person required to deliver a public offering statement pursuant to Section 47C-4-102(c) shall provide a purchaser of a unit or the spouse of such purchaser with a copy of the public offering statement and all amendments thereto before a contract to purchase the unit is executed. No conveyance pursuant to the contract to purchase may occur until seven calendar days following execution of the contract and a purchaser has the absolute right to cancel the contract at any time during this seven calendar day period.

Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.

(b) If a purchaser elects to cancel a contract pursuant to subsection (a), he may do so by hand-delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process.

“§ 47C-4-109. *Resales of units.*—Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under Section 47C-4-101(b), a unit owner shall furnish to a prospective purchaser before conveyance a statement setting forth the monthly common expense assessment and any other fees payable by unit owners.

“§ 47C-4-110. *Escrow of deposits.*—(a) Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to Section 47C-4-102(c) shall be immediately deposited in a trust or escrow account in an insured bank or savings and loan association in North Carolina and shall remain in such account for such period of time as a purchaser is entitled to cancel pursuant to Section 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the seller.

(b) Except as provided in Section 47C-4-108, nothing in subsection (a) is intended to preclude the parties to a contract from providing for the use of progress payments by the declarant during construction.

“§ 47C-4-111. *Release of liens or encumbrances.*—(a) In the case of a sale of a unit where delivery of a public offering statement is required pursuant to Section 47C-4-102(c), a seller shall, at or before conveying a unit, record or furnish to the purchaser, releases of all liens or encumbrances affecting that unit and its common element interest which the purchaser does not expressly agree to take subject to or assume, or shall provide a surety bond or substitute collateral for or insurance against the lien or encumbrance as provided for liens or encumbrances on real estate in G.S. 44A-16(5) and (6) or insurance against the lien or encumbrance acceptable to the purchaser. This subsection does not apply to any real estate which a declarant has the right to withdraw.

(b) Before conveying real estate to the association the declarant shall have that real estate released from: (1) all liens or encumbrances the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units, and (2) all other liens or encumbrances on that real estate unless the public offering statement describes certain real estate which may be conveyed subject to liens or encumbrances in specified amounts.

“§ 47C-4-113. *Express warranties of quality.*—The law relating to express warranties is applicable to the sale of a condominium unit and supplements the provisions of this act; provided, however, that the existence of express warranties shall not constitute a disclaimer of implied warranties.

“§ 47C-4-114. *Implied warranties of quality.*—The law relating to implied warranties, including but not limited to, implied warranties that the premises are free from defective materials, constructed in a workmanlike manner, constructed according to sound engineering and

construction standards and that the premises may be used for a particular purpose, is applicable to the sale of a condominium unit and supplements the provisions of this act.

“§ 47C-4-115. *Exclusion of modification of implied warranties of quality.*—(a) Except as limited by subsection (b) with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:

- (1) may be excluded or modified by agreement of the parties; and
- (2) are excluded by expression of disclaimer, such as ‘as is,’ ‘with all faults,’ or other language which in common understanding calls the buyer’s attention to the exclusion of warranties.

(b) With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant and any person in the business of selling real estate for his own account may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.

“§ 47C-4-116. *Statute of limitations for warranties.*—(a) A judicial proceeding for breach of any obligation arising under Section 47C-4-113 or 47C-4-114 must be commenced within the applicable period of limitations set out in Chapter 1 of the North Carolina General Statutes.

(b) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

“§ 47C-4-117. *Effect of violations on rights of action; attorney’s fees.*—If a declarant or any other person subject to this act fails to comply with any provision hereof or any provision of the declaration or bylaws, any person or class of person adversely affected by that failure has a claim for appropriate relief. The court may award reasonable attorney’s fees to the prevailing party.

“§ 47C-4-118. *Labeling of promotional material.*—If any improvement contemplated in a condominium is labeled ‘NEED NOT BE BUILT’ on a plat or plan, or is to be located within a portion of the condominium with respect to which the declarant has reserved a development right, no promotional material may be displayed or delivered to prospective purchasers which describes or portrays that improvement unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified as ‘NEED NOT BE BUILT’.

“§ 47C-4-119. *Declarant’s obligation to complete.*—(a) The declarant shall complete all improvements labeled ‘MUST BE BUILT’ on plats or plans prepared pursuant to Section 47C-2-109.

(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the condominium, of any portion of the condominium affected by the exercise of rights reserved pursuant to or created by Sections 47C-2-110, 47C-2-111, 47C-2-112, 47C-2-113, 47C-2-115, and 47C-2-116.

“§ 47C-4-120. *Substantial completion of units.*—In the case of a sale of a unit where delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion executed by an architect licensed under the provisions of Chapter 83 of the General Statutes or an engineer registered under the provisions of Chapter 89C of the General Statutes, or by issuance of a certificate of occupancy authorized by law.”

Sec. 2. The Revisor of Statutes is directed to include, as annotations to the published General Statutes all relevant portions of the Official Commentary to the Uniform Condominium Act as the Revisor may deem appropriate to explain or illustrate portions of this act.

Sec. 3. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 761

CHAPTER 878

AN ACT TO APPORTION THE FEDERAL ESTATE TAX BURDEN AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 28A of the General Statutes is hereby amended by adding a new Article thereto to read as follows:

“Article 27.

“Apportionment of Federal Estate Tax.

“§ 28A-27-1. *Definitions.*—For the purposes of this Article:

(1) ‘Estate’ means the gross estate of a decedent as determined for the purpose of the federal estate tax.

(2) ‘Fiduciary’ includes a personal representative and a trustee.

(3) ‘Person’ means any individual, partnership, association, joint stock company, corporation, governmental agency, including any multiples or combinations of the foregoing as, for example, individuals as joint tenants.

(4) ‘Person interested in the estate’ means any person, including a personal representative, guardian, or trustee, entitled to receive, or who has received, from a decedent while alive or by reason of the death of a decedent any property or interest therein included in the decedent’s taxable estate.

(5) ‘State’ means any state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(6) ‘Tax’ means the net Federal Estate Tax due, after application of any available unified transfer tax credit, and interest and penalties imposed in addition to the tax.

“§ 28A-27-2. *Apportionment.*—(a) Except as otherwise provided in subsection (b) of this section, or in G.S. 28A-27-5, G.S. 28A-27-6, or G.S. 28A-27-8, the tax shall be apportioned among all persons interested in the estate in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all

persons interested in the estate. The values as finally determined for federal estate tax purposes shall be used for the purposes of this computation.

(b) In the event the decedent's will provides a method of apportionment of the tax different from the method provided in subsection (a) above, the method described in the will shall control. A general direction in the will that taxes shall not be apportioned, whether or not referring to this Article, but shall be paid from the residuary portion of the estate shall not, unless specifically stated otherwise, apply to taxes imposed on assets which are includible in the valuation of the decedent's gross estate for federal estate tax purposes only by reason of Sections 2041, 2042 or 2044 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent tax law. In the event that the estate tax computation involves assets described in the preceding sentence, unless specifically stated otherwise, apportionment shall be made against such assets and the tax so apportioned shall be recovered from the persons receiving such assets as provided in Sections 2206, 2207 or 2207A of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent tax law.

"§ 28A-27-3. *Procedure for determining apportionment.*—(a) The personal representative of a decedent shall determine the apportionment of the tax.

(b) If the personal representative finds that it is inequitable to apportion interest and penalties in the manner provided in this Article because such interest or penalties were imposed due to the fault of one or more persons interested in the estate he may direct apportionment thereon in the manner he finds equitable.

(c) The expenses reasonably incurred by the personal representative in connection with the apportionment of the tax shall be apportioned as provided for taxes under this Article. If the personal representative finds that it is inequitable to apportion the expenses because such expenses were incurred because of the fault of one or more persons interested in the estate he may direct other more equitable apportionment.

"§ 28A-27-4. *Uncollected tax.*—The personal representative shall not be under any duty to institute any suit or proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the six months next following final determination of the tax. A personal representative who institutes the suit or proceeding within a reasonable time after the six months' period shall not be subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectable at a time following the death of the decedent but thereafter became uncollectable. If the personal representative cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be apportioned among the other persons interested in the estate who are subject to apportionment. The apportionment shall be made in the proportion that the value of the interest of each remaining person interested in the estate bears to the total value of the interests of all remaining persons interested in the estate.

“§ 28A-27-5. *Exemptions, deductions, and credits.*—(a) Any interest for which a deduction or exemption is allowable under the federal revenue laws in determining the value of the decedent's net taxable estate, such as property passing to or in trust for a surviving spouse and gifts or bequests for charitable, public, or similar purposes, shall not be included in the computation provided for in Section 28A-27-2 to the extent of the allowable deduction or exemption. When such an interest is subject to a prior present interest which is not allowable as a deduction or exemption, such present interest shall not be included in the computation provided for in this Article and no tax shall be apportioned to or paid from principal.

(b) Any credit for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate shall inure to the proportionate benefit of all persons liable to apportionment; provided, however, that if the tax which gives rise to such a credit has in fact been paid by a person interested in the estate, the benefit of such credit shall inure to that person paying the tax.

(c) Any credit for inheritance, succession, or estate taxes or taxes in the nature thereof in respect to property or interests includible in the estate shall inure to the benefit of the persons or interests chargeable with the payment thereof to the extent that, or in the proportion that, the credit reduces the tax.

(d) To the extent that property passing to or in trust for a surviving spouse or any charitable, public, or similar gift or bequest does not constitute an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in this Article, and to that extent no apportionment shall be made against the property. This section does not apply in any instance where the result will be to deprive the estate of a deduction otherwise allowable under Section 2053(d) of the Internal Revenue Code of 1954 of the United States or corresponding provisions of any subsequent tax law, relating to deduction for State death taxes on transfers for public, charitable, or religious uses.

“§ 28A-27-6. *No apportionment between temporary and remainder interests.*—No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

“§ 28A-27-7. *Fiduciary's rights and duties.*—(a) The personal representative may withhold from any property of the decedent in his possession, distributable to any person interested in the estate, the amount of the tax apportioned to his interest. If the property in possession of the personal representative and distributable to any person interested in the estate tax is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative he may

recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this Article.

(b) If property held by the fiduciary or other person is distributed prior to final apportionment of the tax, the personal representative may require the distributee to provide a bond or other security for the apportionment liability in the form and amount prescribed by the fiduciary, with the approval of the clerk of superior court having jurisdiction of the administration of the estate.

“§ 28A-27-8. *Difference with Federal Estate Tax Law.*—If the liabilities of persons interested in the estate as prescribed by this Article differ from those which result under the Federal Estate Tax Law, the liabilities imposed by the federal law will control and the balance of this Article shall apply as if the resulting liabilities had been prescribed herein.

“§ 28A-27-9. *Effective date.*—The provisions of this Article shall not apply to taxes due on account of the death of decedents dying prior to October 1, 1986.”

Sec. 2. G.S. 1-255 is hereby amended by adding a new subdivision to read as follows:

“(4) To determine the apportionment of the federal estate tax, interest and penalties under the provisions of Article 27 of Chapter 28A.”

Sec. 3. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1476

CHAPTER 879

AN ACT TO EXEMPT THE CITIES OF HENDERSON AND MURFREESBORO FROM CERTAIN ZONING NOTICE REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-384 or any other provision of law, a city shall not be required to mail any notice of proposed zoning classification actions to any property owner or other person.

Sec. 2. This act applies only to the Cities of Henderson and Murfreesboro.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1578

CHAPTER 880

AN ACT TO INCREASE THE SEASON BAG LIMIT FOR FOXES IN BLADEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 722 of the 1985 Session Laws is amended by deleting the word “ten” and substituting “thirty”.

Sec. 2. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1584

CHAPTER 881**AN ACT TO AUTHORIZE CHOWAN COUNTY TO LEVY AN EXCISE TAX ON INSTRUMENTS CONVEYING REAL PROPERTY IN CHOWAN COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. Tax. (a) **Authorization.** The Chowan County Board of Commissioners may, by resolution, levy an excise tax on instruments conveying certain interests in real property in Chowan County, including instruments that convey an interest in a mobile home that, at the time of the conveyance, is taxed as real property. The tax imposed may not exceed one dollar (\$1.00) on each one hundred dollars (\$100.00) or fraction thereof of the consideration or value of the interest conveyed, including the value of any lien or encumbrance remaining on the property at the time of sale. This tax is in addition to the tax levied by Article 8E of Chapter 105 of the General Statutes.

(b) **Scope.** A tax levied under this act applies to all instruments conveying an interest in real property in Chowan County except an instrument:

- (1) Conveying an interest in real property from the United States, the State, or a political subdivision of the State;
- (2) Securing indebtedness; or
- (3) Recording a transfer in which no consideration was paid or is due the transferor by the transferee.

In addition, this tax does not apply to conveyances of an interest in real property by operation of law, by will, by intestacy, by merger, or by consolidation.

(c) **Collection.** A tax levied under this act shall be administered by the Chowan County Tax Collector. The tax must be paid at the tax collector's office or at the register of deeds' office before the instrument conveying the instrument is recorded. The tax collector shall stamp or otherwise mark each instrument for which he collects the tax to indicate that the tax has been paid. The Chowan County Register of Deeds may not accept for recordation an instrument subject to a tax levied under this act unless the instrument bears the tax collector's mark indicating that the tax has been paid or the tax is paid to the register of deeds when the instrument is offered for recordation.

(d) **Use and Distribution of Tax Revenue.** For the first five fiscal years in which a tax levied under this act is in effect, all proceeds of the tax shall be retained by the county and shall be placed in a special Capital Reserve Fund in the general fund of the county. Revenue in this Fund may be used by the county only for capital expenditures.

Beginning with the sixth fiscal year in which a tax levied under this act is in effect, the county shall, on a quarterly basis, distribute one-half ($\frac{1}{2}$) of the proceeds of the tax collected on instruments conveying interests in real property located in the corporate limits of the Town of Edenton

to the Town. Revenue distributed to the Town of Edenton may be used only for capital expenditures. The remaining proceeds shall be retained by the county and placed in the special Capital Reserve Fund established under this subsection, to be used only for capital expenditures.

(e) Penalties. A person who knowingly fails to pay a tax levied under this act, who knowingly aids another to fail to pay a tax levied under this act, or who, to avoid paying part or all of the tax due under this act, knowingly misstates the total consideration for an interest conveyed is guilty of a misdemeanor and is punishable by imprisonment for up to two years and a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000).

(f) Taxes recoverable by action. If a transferor fails to pay a tax imposed by this act within 30 days of the tax collector's demand that he pay the tax, the tax may be recovered by Chowan County in an action brought in the district court of the county. In an action to recover a tax imposed under this act, costs of court shall include a fee to the county of twenty-five dollars (\$25.00) for the expense of collection. The court may award attorney's fees to the county.

(g) Effective date; application. A tax levied under this act shall become effective on the first day of a month, as designated in the resolution levying the tax, and may not become effective for at least 30 days after the adoption of the resolution. A tax levied under this act applies to instruments that are recorded on or after the effective date of the levy, except instruments recorded on or after that date that convey an interest in real property pursuant to a written contract made before the effective date.

(h) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Chowan County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month, as designated in the resolution repealing the tax, and shall apply to instruments recorded on or after the effective date of the repeal. Repeal of a tax levied under this act does not affect a liability for the repealed tax that attached before the effective date of the repeal.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1585

CHAPTER 882

AN ACT TO PROHIBIT HUNTING FROM DESIGNATED STATE SECONDARY ROADS IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, take or kill any animal or bird on, or from the right-of-way of State Secondary Road 1144, State Secondary Road 1611 and State Secondary Road 1620, all in Craven County.

Sec. 2. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or by imprisonment not to exceed 30 days, and punishable for a second conviction within three years by a fine of not less

than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), by imprisonment not to exceed 90 days or by both.

Sec. 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs and by other peace officers with general subject matter jurisdiction.

Sec. 4. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1587

CHAPTER 883

AN ACT TO AUTHORIZE WATAUGA COUNTY AND MUNICIPALITIES LOCATED THEREIN TO REGULATE ABANDONED AND JUNKED VEHICLES FOR AESTHETIC PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 1 of Chapter 841 of the 1983 Session Laws is amended by adding immediately after "Dare" the word ", Watauga".

Sec. 2. The first sentence of Section 2 of Chapter 841 of the 1983 Session Laws is amended by adding immediately after "Dare" the word ", Watauga".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1593

CHAPTER 884

AN ACT TO AUTHORIZE RICHMOND COUNTY AND MUNICIPALITIES LOCATED THEREIN TO REGULATE ABANDONED AND JUNKED VEHICLES FOR AESTHETIC PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 1 of Chapter 841 of the 1983 Session Laws is amended by adding immediately after "Dare" the word ", Richmond".

Sec. 2. The first sentence of Section 2 of Chapter 841 of the 1983 Session Laws is amended by adding immediately after "Dare" the word ", Richmond".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1598

CHAPTER 885

AN ACT TO REVISE THE CHARTER OF THE TOWN OF WADESBORO.

The General Assembly of North Carolina enacts:

Section 1. Section 6.1 of the Charter of the Town of Wadesboro, being Chapter 297 of the 1975 Session Laws, is amended by deleting the words and punctuation “, but shall reside therein during his tenure of office”.

Sec. 2. Article IX of the Charter of the Town of Wadesboro, being Chapter 297 of the 1975 Session Laws, is repealed.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1602

CHAPTER 886

AN ACT TO ALLOW THE GREENSBORO ALCOHOLIC BEVERAGE CONTROL BOARD TO PROVIDE ITS OWN LAW ENFORCEMENT PERSONNEL AND TO CONTRACT FOR ADDITIONAL LAW ENFORCEMENT SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-501(f) is rewritten to read:

“(f) Contracts with other agencies. Instead of, or in addition to, hiring local ABC officers, a local board may contract to pay enforcement funds to a sheriff’s department, city police department, or other local law enforcement agency for enforcement of the ABC laws within the Agency’s territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the officers of the contracting law enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have.

Payments received by a contracting agency for furnishing law enforcement services shall be in addition to any profits allocated to local governments derived from sale of alcoholic beverages.”

Sec. 2. This act shall apply only to the Greensboro Alcoholic Beverage Control Board.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1611

CHAPTER 887**AN ACT TO PROVIDE FOR CONSTRUCTION OF AN ATHLETIC FIELD HOUSE AT EAST DUPLIN HIGH SCHOOL.***The General Assembly of North Carolina enacts:*

Section 1. The provisions of Article 8 of Chapter 143 of the General Statutes and of Article 3 of Chapter 44A of the General Statutes do not apply to construction of a field house at East Duplin High School in Duplin County.

Sec. 2. This act is effective upon ratification and expires June 30, 1989.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1618

CHAPTER 888**AN ACT TO CHANGE THE NAME OF THE GOVERNING BOARD OF THE CITY OF GOLDSBORO FROM THE BOARD OF ALDERMEN TO THE COUNCIL.***The General Assembly of North Carolina enacts:*

Section 1. The Charter of the City of Goldsboro, being Chapter 69, Session Laws of 1973, is amended by deleting "Board of Aldermen" every place those words appear, and substituting "Council".

Sec. 2. The Charter of the City of Goldsboro, being Chapter 69, Session Laws of 1973, is amended by deleting "Aldermen", every place that word appears, and substituting "Council".

Sec. 3. The Charter of the City of Goldsboro, being Chapter 69, Session Laws of 1973, is amended by deleting "Board", every place that word appears, and substituting "Council".

Sec. 4. Any local act applicable to the City of Goldsboro, other than the Charter, is amended as to the City of Goldsboro by substituting "Council" for "Board of Aldermen", "Aldermen", and "Board" (whenever the term "Board" means the "Board of Aldermen").

Sec. 5. This act shall become effective 10 days after ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1630

CHAPTER 889**AN ACT TO AUTHORIZE GASTON COUNTY TO ENTER INTO LONG TERM CONTRACTS FOR DISPOSAL OF SOLID WASTE.***The General Assembly of North Carolina enacts:*

Section 1. G.S. 153A-299.6 is amended by inserting immediately after "Edgecombe County," the words "Gaston County,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1631

CHAPTER 890

AN ACT TO PERMIT THE TAKING OF FOXES IN PERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 108 of the 1985 Session Laws is amended by adding after the language "Hoke" the language " , Person,".

Sec. 2. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1642

CHAPTER 891

AN ACT TO REGULATE HUNTING IN NASH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt deer with a rifle except from a stand at least six feet off the ground.

Sec. 2. It is unlawful to hunt on or discharge any rifle on or across the right-of-way of any road.

Sec. 3. It is unlawful to hunt on the land of another without the written permission of the owner or lessee of the land.

Sec. 4. Violation of this act is a misdemeanor punishable for a first offense by a fine of not less than ten dollars (\$10.00) or more than fifty dollars (\$50.00) or imprisonment not to exceed 30 days and punishable for a subsequent conviction within three years by a fine of not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00), by imprisonment not to exceed 90 days, or by both.

Sec. 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by officers of the State Highway Patrol, by Alcohol Law Enforcement Agents, by local ABC officers, and by other peace officers with general subject matter jurisdiction.

Sec. 6. This act applies to Nash County only.

Sec. 7. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1646

CHAPTER 892

AN ACT TO AUTHORIZE MCDOWELL COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax. (a) Authorization and Scope. The McDowell County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within

the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by educational organizations, religious organizations, or summer camps.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Distribution and Use of Tax Revenue. McDowell County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the McDowell Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date

must be the first day of a calendar month, however, and may not be earlier than January 1, 1987, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the McDowell County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Tourism Development Authority. (a) Appointment and Membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following nine members:

(1) The Executive Director of the McDowell Chamber of Commerce, who shall serve as an ex officio, nonvoting member;

(2) A county commissioner appointed by the McDowell County Board of Commissioners, who shall serve as an ex officio, nonvoting member;

(3) Four owners or operators of hotels, motels, or other taxable accommodations, two of whom shall be appointed by the McDowell County Board of Commissioners, and two of whom shall be appointed by the McDowell Chamber of Commerce. Two of these four appointees shall own or operate hotels, motels, or other accommodations with more than 50 rental units, and two appointees shall own or operate hotels, motels, or other accommodations with 50 or fewer rental units;

(4) Three individuals involved in tourist businesses who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other taxable accommodations, appointed as follows: two by the McDowell Chamber of Commerce and one by the McDowell County Board of Commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term which they are appointed to fill. Except as provided in subsection (b) for initial members, members shall serve three-year terms. Members may serve no more than two consecutive terms. The members shall elect a chairman from the membership of the Authority, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The Finance Officer for McDowell County shall be the ex officio finance officer of the Authority.

(b) Terms of Initial Members. The following initial members shall serve terms for other than three years:

(1) The appointed county commissioner and the member appointed by the board of commissioners under subdivision (a)(4) of this section, who shall serve one-year terms; and

(2) One of the members appointed under subdivision (a)(3) of this section by the Chamber, one of the members appointed under subdivision (a)(4) by the Chamber, and one of the members appointed under subdivision (a)(3) by the board of commissioners, as designated by the appointing body, who shall serve two-year terms.

(c) Duties. The Authority shall promote travel, tourism, and conventions in McDowell County. In performing its duties, the Authority may contract with any person, firm, or agency to advise and assist it and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed upon a recommendation made by the Authority shall be hired and supervised by the Authority, which shall pay the salaries and expenses of this staff.

(d) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 3. Review of Levy. Three years from the effective date of a tax levied under this act, the McDowell County Board of Commissioners shall conduct a thorough review of the tax and the function of the Tourism and Development Authority established under this act to determine the effectiveness of the levy and of the Authority.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1661

CHAPTER 893**AN ACT TO AUTHORIZE THE LAWFUL TAKING OF BLACK BEARS
IN HYDE COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 412 of the Session Laws of 1977 is repealed.

Sec. 2. The season for hunting black bears in Hyde County during 1986 shall be from November 10 to November 15, both dates inclusive.

Sec. 3. The seasons for hunting black bears in Hyde County in 1987 and succeeding years shall be established as authorized by Chapter 113 of the General Statutes of North Carolina.

Sec. 4. G.S. 113-133.1(e) is amended in the chart by deleting the language: “; Session Laws 1977, Chapter 412” in the entry for Hyde County.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1678**CHAPTER 894****AN ACT TO ALLOW SAMPSON COUNTY TO CONVEY THE OLD SAMPSON HIGH SCHOOL PROPERTY AT PRIVATE SALE.***The General Assembly of North Carolina enacts:*

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, Sampson County may convey at private sale with or without monetary consideration any or all of its right, title, and interest in the Old Sampson High School Property to the Sampson High School Alumni Association, Incorporated, subject to any reservations that the Board of Commissioners of Sampson County may deem appropriate at the time of transfer.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1679**CHAPTER 895****AN ACT TO PROVIDE TRAINING REQUIREMENTS FOR APPOINTED LAW ENFORCEMENT OFFICERS.***The General Assembly of North Carolina enacts:*

Section 1. G.S. 153A-211 is amended by deleting the period at the end of subdivision five and substituting the phrase “; and”; and by adding a new subdivision at the end to read:

“(6) Require that any individual appointed as a law enforcement officer comply with the training standards provided under G.S. Chapter 17C.”

Sec. 2. This act does not affect law enforcement officers governed by the provisions of Chapter 17E of the General Statutes.

Sec. 3. This act applies only to Onslow County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1693**CHAPTER 896****AN ACT CONCERNING THE FILLING OF VACANCIES ON THE WILMINGTON CITY COUNCIL.***The General Assembly of North Carolina enacts:*

Section 1. Section 3.2(c) of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is amended to read:

“(c) If any elected council member shall refuse to be qualified, or if there is a vacancy of a council member after election and qualification or if any council member be unable to discharge the duties of his office, the remaining members of the council shall appoint some person to serve until an elected successor takes office or during his disability, as the case may be. Council members so appointed shall have the authority and powers granted by this charter to regularly elected councilmen.”

Sec. 2. Section 3.2 of the Charter of the City of Wilmington, being Chapter 495, Session Laws of 1977, is amended by adding a new subsection (d) to read as follows:

“(d) When a person is appointed to fill a vacancy occurring in the office of council member, the appointee shall serve until the next regular or special municipal or county election that is held more than 90 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of office. Provided, that when the unexpired term of office in which the vacancy has occurred extends less than one year from the date of such regular or special election, the person appointed shall serve the remainder of the unexpired term.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.B. 867

CHAPTER 897

AN ACT TO AUTHORIZE THE YANCEY BOARD OF COMMISSIONERS TO EXERCISE JURISDICTION OVER THE REGULATION OF DOMESTIC ANIMALS.

The General Assembly of North Carolina enacts:

Section 1. Yancey County is exempted from the provisions of G.S. 67-12 and the Board of Commissioners of Yancey County is authorized to exercise the jurisdiction over the regulation of domestic animals set out in G.S. 160A-186.

Sec. 2. This act does not apply to prosecutions for offenses occurring before the effective date of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1544

CHAPTER 898

AN ACT TO ALLOW MEMBERS OF THE JUVENILE LAW STUDY COMMISSION TO SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-740 is amended by adding a new sentence to the end to read:

“If, when a term expires, the appointing authority has not filled the vacancy, the member whose term has expired shall continue to serve until the appointment is made.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 2101

CHAPTER 899

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to authorize construction, by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed herein for each such institution, and to authorize the financing of these said capital improvements projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of such funds, but not including funds appropriated from the General Fund of the State.

Sec. 2. The projects hereby authorized to be constructed and financed as provided in Section 1 of this act are as follows:

1. East Carolina University	
a. Mendenhall Student Center Expansion	\$ 3,600,000
b. Medical School Facilities	1,106,000
2. The University of North Carolina at Chapel Hill	
a. Alumni Center	6,967,000
3. The University of North Carolina at Wilmington	
a. Student Housing	6,455,000
b. Athletic Facilities	1,443,100
4. North Carolina Memorial Hospital	
a. Radiation Therapy Facility	4,535,000
Grand Total Self-Liquidating Authorizations	\$24,106,100

Sec. 3. Notwithstanding the provisions of Section 1 of this act, nor the provisions of any law of the State of North Carolina heretofore enacted, nor the provisions of any other legislative act that may be promulgated by the 1986 Session of the 1985 General Assembly, the Radiation Therapy Facility for North Carolina Memorial Hospital shall be financed solely from excess receipts above those budgeted at North Carolina Memorial Hospital, including prior years' Medicare settlement funds, received during the 1985-86 fiscal year. Such excess receipts shall not revert, nor shall they be considered as having reverted at the end of the 1985-86 fiscal year.

Sec. 4. The Director of the Budget, after consultation with the Advisory Budget Commission, may, when in his opinion it is in the best interest of the State to do so, and upon the request of The University of North Carolina Board of Governors, authorize an increase or a decrease in the scope or a change in the method of funding of any project authorized by this act.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.B. 1179

CHAPTER 900

AN ACT TO RESTORE THE RIGHT OF NEAR RELATIVES TO ASSIST VOTERS, WHICH WAS REPEALED BY THE 1985 SESSION.

The General Assembly of North Carolina enacts:

Section 1. Sections 16 and 16.3 of Chapter 563, Session Laws of 1985, are repealed, and the provisions of G.S. 163-152(a)(1)a. and G.S. 163-152(d) which were repealed by those sections are reenacted.

Sec. 2. This act shall become effective with respect to all elections occurring on or after October 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1448

CHAPTER 901

AN ACT REQUIRING THAT CERTAIN GOLF CARTS AND BATTERY CHARGERS BE CONSIDERED A SINGLE ARTICLE FOR SALES TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Part 4 of Division II of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

“§ 105-164.12A. *Electric golf cart and battery charger considered a single article.*—The sale of an electric golf cart and a battery charger that is not physically attached to the golf cart is considered the sale of a single article of tangible personal property in imposing tax under this Article if the battery charger is designed to recharge the golf cart and is sold to the purchaser of the golf cart when the golf cart is sold.”

Sec. 2. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1475

CHAPTER 902

AN ACT TO ALLOW THE CITY OF GASTONIA TO ENACT LOCAL FAIR HOUSING ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. The City Council of Gastonia may adopt ordinances to prohibit discrimination in housing based on race, color, national origin, religion, sex, handicap, or attained age between 40 and 70 years, inclusive. To assist in the enforcement of the ordinances, the Council may authorize or create an agency or commission of the City of Gastonia, hereinafter referred to as “the agency,” to take such actions and to have such powers as might be appropriate and necessary to implement the ordinances, including the power to:

- (1) receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints;

- (2) mediate alleged violations of the ordinances;
- (3) issue orders against persons it finds, after notice and hearing, to have violated the ordinances; and
- (4) seek court enforcement of its orders.

Sec. 2. As used in this act, the word “person” includes individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations (except a bona fide private membership club, other than a labor organization, that is exempt from taxation under 501(c) of the Internal Revenue Code of 1954), trustees, trustees-in-bankruptcy, and receivers.

Sec. 3. Judicial review of agency orders shall be in accordance with Article 4 of Chapter 150B of the General Statutes provided, however, that the provisions of G.S. 150B-45 notwithstanding, petitions for judicial review shall be filed in the Superior Court of Gaston County. The term “agency,” whenever used in Article 4 of Chapter 150B of the North Carolina General Statutes, shall mean the agency as authorized or created by the City Council of Gastonia under the authority of this act.

Sec. 4. The agency’s orders shall be enforced as follows:

- (a) If within 60 days after entry of an order of the agency, a respondent has neither complied with nor sought review of the order, any aggrieved person or the agency may apply to the Superior Court of Gaston County for an order of the court enforcing the order of the agency.
- (b) Within 30 days after the court’s receipt of the petition for enforcement of the agency’s order or within such additional time as the court may allow, the agency shall transmit to the court the original or a certified copy of the entire record of the proceedings leading to the order. With the permission of the court, the record may be shortened by stipulation of all parties. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for any additional costs attributable to the refusal. The court may require or permit subsequent corrections or additions to the record in its discretion.
- (c) The hearing on the petition for enforcement of the agency’s order shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but may take no evidence not offered at the agency hearing; except that in cases of alleged irregularities in procedure before the agency not shown in the record, testimony on the alleged irregularities may be taken by the court; and except that where no record was made of the proceeding or the record is inadequate, the court in its discretion may hear all or part of the matter de novo.
- (d) The court shall issue an order requiring compliance with the agency’s order unless it finds that enforcement of the agency’s order would prejudice substantial rights of the party against whom enforcement is sought because the agency’s findings, inferences, conclusions, or decisions are:
 - (1) in violation of constitutional provisions;

- (2) in excess of the statutory authority or jurisdiction of the agency;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.
- (e) If the court declines to enforce the agency's order for one of the reasons specified in paragraph (d) of this section, it shall either:
 - (1) dismiss the petition;
 - (2) modify the agency's order and enforce it as modified; or
 - (3) remand the case to the agency for further proceedings.
- (f) Any party to the hearing on the petition for enforcement of the agency's order may appeal the court's decision to the appellate division under the rules of procedure applicable to other civil cases.

Sec. 5. An ordinance adopted pursuant to this act may permit a complainant dissatisfied with the agency's final disposition of a matter to bring a civil action in the Superior Court Division of the General Court of Justice of Gaston County against the person allegedly engaging in the unlawful practice. A civil action for an unlawful housing practice may not be brought more than one year after the charge was filed with the agency or more than 60 days after the complainant's receipt of notification of the agency's final disposition of the matter, whichever is later.

If the court finds that the respondent has engaged in or is engaging in an unlawful housing practice charged in the complaint, the court may enjoin the respondent from engaging in the unlawful housing practice, and order any other action that may be appropriate.

In an action or proceeding under an ordinance adopted pursuant to this act, the court may in its discretion allow the prevailing party, other than the agency, a reasonable attorney's fee as part of the costs, and the agency shall be liable for costs the same as a private person.

Sec. 6. To assist in enforcement of ordinances authorized by this act, and investigate violations of the ordinances, the agency may subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued by the agency, the agency may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue such orders after notice to all proper parties. The testimony of a witness before the agency pursuant to a subpoena authorized by this section may not be used against the witness on the trial of any criminal action other than a prosecution for false swearing committed on the examination. A person who, while under oath administered pursuant to this section, willfully swears falsely is guilty of a misdemeanor.

Sec. 7. The agency may at all reasonable times, have access to and copy any evidence of a person being investigated that relates to an unlawful housing practice under an ordinance adopted pursuant to this act and relevant to the charge under investigation. Information discovered during such an investigation may not be made public by the agency until offered into evidence in an administrative hearing or judicial proceeding.

Sec. 8. A public record concerning the investigation, conciliation, or mediation of an alleged violation of an ordinance authorized by this act is not subject to the provisions of G.S. 132-6 and G.S. 132-9.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1477

CHAPTER 903

AN ACT TO PROVIDE FOR THE REGISTRATION OF LAND IN VANCE COUNTY AND TO PROHIBIT HUNTING OR THE DISCHARGE OF FIREARMS WITHOUT PERMISSION BY PERSONS ON THE REGISTERED LAND AND ON ABUTTING PORTIONS OF HIGHWAY.

The General Assembly of North Carolina enacts:

Section 1. Definitions. The definitions in Article 12 of Chapter 113 of the General Statutes of North Carolina apply in the construction of this act. In addition, the following definitions apply:

(1) **Abutting Portion of Highway.** The portion of a highway immediately abutting registered land. This immediately abutting portion extends from the center of the main-traveled portion to the right-of-way boundary shared with the registered land.

(2) **Entry Permit.** The permit described in Section 3.

(3) **Highway.** The entire distance between right-of-way property lines of every public roadway.

(4) **Possessor of Land.** A person who owns land, is a lessee in general possession of land, or the lessee of hunting rights on the land.

(5) **Registered Land.** Land that has been accepted for registration by the sheriff and published as such, and which has not been deleted from registration.

(6) **Registrant.** A current applicant of record for a tract of registered land.

(7) **Sheriff.** The Sheriff of Vance County or any of his deputies or employees authorized to perform the duties under this act.

Sec. 2. Registration procedure. (a) A person who possesses land and wishes to register it under this act must apply to the sheriff in accordance with this section.

(b) A new registration application or a renewal application containing an amendment of the boundaries of the tract of registered land must be filed with the sheriff between July 1 and August 1 and must contain:

(1) A statement under oath by the applicant that he is the possessor of the tract of land to be registered. If the applicant is not an owner, he must file a copy of his lease or other document granting him his right of general possession of or the control of hunting rights on the land.

(2) Three copies of a description of the tract that will allow law enforcement officers to determine in the field, and prove in court, whether an individual is within the boundaries of the tract. This

description may take the form of a map, plat, aerial photograph showing boundaries, diagram keyed to known landmarks, or any other document or description that graphically demarks the boundaries with sufficient accuracy for use by officers in court and in the field.

- (3) An agreement by the applicant to post the tract in accordance with the requirements of this section by August 15, and to make a continuing effort to maintain posted notices for the tract.
- (4) An agreement by the applicant to issue or cause issuance of an entry permit to all individuals not exempted by Section 5(c) to whom he or his authorized agent gives permission to hunt or to discharge firearms on the tract or on any highway adjacent to the tract. The applicant must file the name and signature of any agent authorized by him to issue the entry permit.
- (5) An agreement to notify the sheriff in writing immediately upon rescinding the authority of any agent and to file the name and signature of any new agent with the sheriff.
- (6) A fee of ten dollars (\$10.00) to cover the administrative costs of processing the registration application.
- (c) An application for annual renewal of registration in which there is no change of boundaries of the tract must be filed with the sheriff between July 1 and August 1 and must contain:
 - (1) A statement under oath by the applicant that he remains the possessor of the tract of registered land.
 - (2) A statement under oath that every posted notice required by this section has been reviewed within the 30 days preceding the application and a specification as to any failure of compliance with the posting requirements. If there is any such failure, the registrant must agree to bring his tract of registered land into full compliance with posting requirements by August 15.
 - (3) An agreement to make a continuing effort to maintain posted notices for the tract.
 - (4) An agreement to issue or cause issuance of an entry permit to all individuals not exempted by Section 5(c) to whom he or his authorized agent gives permission to hunt or to discharge firearms on the tract or on any highway adjacent to the tract. The registrant must list the name of each agent currently authorized by him to issue the entry permit, and must file the name and signature of any agent newly so authorized.
 - (5) An agreement to notify the sheriff in writing immediately upon rescinding the authority of an agent and to file the name and signature of any new agent with the sheriff.
 - (6) A fee of five dollars (\$5.00) to cover the administrative costs of processing the renewal application.
 - (d) Within 20 days after a registrant loses his status as the possessor of all or any part of a tract of registered land, he must notify the sheriff of this fact. If there is a new possessor who wishes to retain the land's registered status, and there will be no change as to the overall boundaries of registered land, the new possessor may within 20 days after gaining this status apply to the sheriff to have the former registrant's application

amended to designate him as the possessor of the transferred tract or portion of the tract. The amended application must contain all the provisions of a renewal application under subsection (c), and the new possessor must pay a fee of five dollars (\$5.00) to cover the administrative costs of processing the renewal application. If there is any lapse as to the registered status of the land or any change as to boundaries of registered land, application must be made between July 1 and August 1 under the provisions of subsection (b).

(e) The sheriff must first examine each application submitted under subsection (b) to determine whether the description of the tract will satisfy the provisions of subdivision (2). If the description is not adequate, the sheriff may in his discretion reject the application or require an amended description that does satisfy those provisions. If the application otherwise satisfies the provisions of subsection (b), the sheriff before September 1 must inspect the tract to be registered to determine whether the land is properly posted in compliance with this section. As to renewal applications, the sheriff must determine whether the provisions of subsection (c) are met. Of the applications that do meet the requirements, he must make spot checks of the tracts of land covered by these applications before September 1 for compliance with the posting requirements of this section.

(f) By September 1 each year, the sheriff must:

- (1) File with the Register of Deeds of Vance County a listing of all tracts of land accepted by him for registration during the ensuing year. This listing must contain an abbreviated description of the location of each tract of land so accepted.
- (2) File with the Register of Deeds a copy of the full description of the boundaries of each tract accepted for registration that year under subsection (b). As to the remaining applications accepted, the sheriff must indicate in his filing with the Register of Deeds the year in which a full description was filed for that tract that met the requirements of subdivision (2) of subsection (b).
- (3) File with the North Carolina Wildlife Resources Commission all of the material required to be filed with the Register of Deeds under subdivisions (1) and (2). The sheriff must also furnish the North Carolina Wildlife Resources Commission with a copy of the signature of each registrant and agent newly authorized to issue entry permits during the ensuing year, and a listing of agents no longer authorized to issue entry permits. In addition, throughout the year as registrants make changes with respect to their authorized agents or there are amended applications that substitute registrants, the sheriff must as soon as feasible inform the Commission of the changes and file with the Commission a copy of the signatures of new registrants and agents.
- (4) Release for publication by appropriate media with coverage in Vance County the listing described in subdivision (1).
- (5) Compile and maintain throughout the ensuing year in his office, so that the information is freely available to the public, all of the information covered by this subsection.

(g) Each registrant under this act must post his tract of registered land within the time limits agreed to by him in his registration application, and the registrant must from time to time inspect his registered land and repost the land to keep it in conformance with the requirements of this subsection. Posted notices must measure at least 120 square inches; contain the word "POSTED" in letters at least three inches high; state that the land is registered with the Sheriff of Vance County and that hunting and the discharge of firearms are prohibited without an entry permit. Notices must be conspicuously posted not more than 200 yards apart close to and along the boundaries of the tract. In any event, at least one notice must be placed on each side of the registered tract, one at each corner, one facing toward the traveled portion of each abutting highway, and one at each point of entry. A point of entry is where a roadway, trail, path, or other way likely to be used by entering hunters and marksmen leads into the tract. Notices posted along the boundaries of a tract must face in the direction that they will most likely be seen by hunters and marksmen.

(h) Any law enforcement officer or any employee of the North Carolina Wildlife Resources Commission who determines that a registrant has failed to keep registered property posted in substantial compliance with this section must so notify the registrant or his agent. If within a reasonable time after notice the registrant fails to take steps to post or repost the tract, or if without regard to notice a registrant is inexcusably or repeatedly negligent in failing to keep the tract properly posted, the sheriff upon learning of this must immediately delete registration of the tract, notify the registrant, or the present possessor if the registrant is no longer a possessor, and require that the responsible person remove any remaining posted notices.

(i) When there is no renewal of an application for registration, when the sheriff learns that a registrant is no longer the possessor of a registered tract of land and there has been no timely application by the new possessor to amend the registration, or when a registrant requests that his tract of land be deleted from registration, the sheriff must immediately delete the registration of the tract, notify the current possessor of his action, and require him to remove all posted notices.

(j) A possessor's failure to cause the removal of all posted signs within a reasonable time after receipt of notice that the tract has been deleted from registration is a misdemeanor punishable in the discretion of the court.

Sec. 3. Entry permits and posted notices furnished by sheriff. (a) Upon initial or renewal registration of a tract of land, the sheriff must furnish the registrant with a reasonable number of entry permit forms to be carried by individuals given permission to hunt or discharge firearms on the registered land or on any highway abutting the registered land. The sheriff must establish a procedure for resupplying registrants and their agents with entry permit forms for their registered land as needed.

(b) To be valid, the entry permit must be issued and dated within the previous 12 months and signed by the registrant, or by an authorized agent of the registrant whose signature is on file with the sheriff.

(c) The sheriff must procure a stock of posted notices that meet the requirements of subsection (g) of Section 2 of this act and, upon initial or renewal registration, furnish the registrant with a sufficient number of posted notices that he may comply with the posting requirements of this act. The sheriff must establish a procedure for supplying registrants with additional posted notices as needed for reposting in compliance with this act.

Sec. 4. Affirmative duty of hunters and marksmen to determine if land is registered. Every individual who enters the land of another to hunt or discharge a firearm and every individual who hunts or discharges a firearm while upon a highway or the land of another is first under a duty to:

(1) Make appropriate inquiries to determine whether the land on which hunting or the discharge of firearms will occur is registered land;

(2) Make appropriate inquiries to determine whether the land abutting the portion of highway on which hunting or the discharge of firearms will occur is registered land; and

(3) Look for posted notices that may warn him of the registered status of any land on which hunting or the discharge of firearms will occur and for posted notices on the land abutting the portion of the highway on which hunting or the discharge of firearms will occur.

Sec. 5. Hunting or discharging firearms without permission on registered land or on abutting portions of highway; exceptions. (a) No one may hunt or discharge a firearm, or enter to hunt or discharge a firearm, on registered land without having in possession a valid entry permit for that land issued to him.

(b) No one may hunt or discharge a firearm on any portion of a highway that abuts registered land without having in possession a valid entry permit for the abutting land issued to him.

(c) This section does not apply to the registrant and members of his immediate family who are hunting or discharging firearms on the registrant's land or on abutting portions of highway.

Sec. 6. Removal, destruction, or mutilation of posted notices. Unauthorized removal, destruction, or mutilation of posted notices on registered land is a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00), imprisonment not to exceed 90 days, or both.

Sec. 7. Posting without authority. No person who is not a registrant of the land in question may erect the notices described in subsection (g) of Section 2 of this act.

Sec. 8. Publication of registration provisions by Wildlife Resources Commission. The Wildlife Resources Commission must in its general publications concerning the laws and regulations pertaining to hunting give appropriate publicity to the provisions of the act and need for hunters and marksmen to make the inquiries set out in Section 4.

Sec. 9. General provisions pertaining to enforcement of act. (a) If land is registered, the original or a true copy of the application and all supporting items are admissible in evidence. The registrant's affidavit respecting the nature of his possessory interest in the tract of land registered constitutes *prima facie* evidence of the facts so asserted. The

description filed with the application constitutes *prima facie* evidence of the boundaries of the registered land.

(b) If an individual hunts or discharges a firearm on any registered land or on any abutting portion of highway, or if an individual enters registered land to hunt or discharge a firearm on that land, any possessor of that land, any agent of the possessor, any wildlife protector, or any law enforcement officer may request that the individual produce a valid entry permit. It is unlawful for any such individual to refuse to exhibit an entry permit.

(c) It is the duty of the sheriff, wildlife protectors, and all law enforcement officers with general enforcement jurisdiction to investigate reported violations of this act and to initiate prosecutions when they determine that violations have occurred.

(d) Any officer who determines that a violation of this act has occurred should initiate a prosecution by issuing a citation or seeking the issuance of a criminal summons unless he has reason to believe that the violator will not appear in court on the appointed date.

(e) Unless a different punishment is elsewhere provided under this act, a violation of any provision of this act is a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days.

Sec. 10. Act applies to Vance County. This act applies only to Vance County.

Sec. 11. Effective date. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1507

CHAPTER 904

AN ACT TO EXPAND THE MEMBERSHIP OF THE RESOURCES DEVELOPMENT COMMISSION FOR BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 10 of Chapter 268, Session Laws of 1961 is amended by deleting all of the language after the first semicolon and substituting: "such commission shall be composed of 11 bipartisan members, to be named by the Brunswick County Board of Commissioners as follows: Two from each of the five electoral districts for county commissioners, as provided by Section 3 of Chapter 444, Session Laws of 1977 as rewritten by Section 4 of Chapter 802, Session Laws of 1981; and one from Brunswick County at large."

Sec. 2. The two additional members authorized by this act shall be appointed for terms as follows: one to expire March 3, 1988, and one to expire March 3, 1989. Their successors shall serve for three year terms. One of the additional members shall be from electoral district 4, the other from electoral district 2. The nine existing members shall represent the electoral district in which they reside, except that one of the three members from electoral district 1 shall be designated by the Brunswick County Board of Commissioners to be the at-large member.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1521

CHAPTER 905**AN ACT TO PERMIT THE TOWN OF TARBORO TO INCREASE ITS PARKING PENALTIES.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.1 is amended by deleting the words "of one dollar (\$1.00)" and substituting the words "to be set by the ordinance, but not in excess of "five dollars (\$5.00)".

Sec. 2. G.S. 20-162(b) is amended by adding immediately after the third sentence the words: "Any person convicted of violating this subsection shall be subject to a penalty of ten dollars (\$10.00)."

Sec. 3. This act shall apply to the Town of Tarboro only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1542

CHAPTER 906**AN ACT TO AUTHORIZE COUNTIES TO LEVY ADDITIONAL ONE-HALF PERCENT LOCAL SALES AND USE TAXES.**

The General Assembly of North Carolina enacts:

Section 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 42.

"Additional Supplemental Local Government
Sales and Use Taxes.

"§ 105-495. *Short title.*—This Article shall be known as the Additional Supplemental Local Government Sales and Use Tax Act.

"§ 105-496. *Purpose and intent.*—It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax and federal revenue sharing, by providing all counties of the State that are subject to this Article with authority to levy one-half percent ($\frac{1}{2}\%$) sales and use taxes.

"§ 105-497. *Limitations.*—This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and also levy one-half percent ($\frac{1}{2}\%$) local sales and use taxes under Article 40 of this Chapter.

"§ 105-498. *Levy and collection of additional taxes.*—Any county subject to this Article may levy one-half percent ($\frac{1}{2}\%$) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional

taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 42 of Chapter 105. All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

"§ 105-499. *Form of ballot.*—(a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this Article shall be: 'FOR one-half percent ($\frac{1}{2}\%$) local sales and use taxes in addition to the current one and one-half percent ($1\frac{1}{2}\%$) local sales and use taxes' or 'AGAINST one-half percent ($\frac{1}{2}\%$) local sales and use taxes in addition to the current one and one-half percent ($1\frac{1}{2}\%$) local sales and use taxes'.

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: 'FOR repeal of the additional one-half percent ($\frac{1}{2}\%$) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent ($1\frac{1}{2}\%$)' or 'AGAINST repeal of the additional one-half percent ($\frac{1}{2}\%$) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent ($1\frac{1}{2}\%$).'

"§ 105-500. *Retail collection bracket.*—The following bracket applies to collections by retailers in a county that levies additional sales and use taxes under this Article:

- (1) No amount on sales of less than 9¢;
- (2) 1¢ on sales of 9¢ to 23¢;
- (3) 2¢ on sales of 24¢ to 48¢;
- (4) 3¢ on sales of 49¢ to 67¢;
- (5) 4¢ on sales of 68¢ to 85¢;
- (6) 5¢ on sales of 86¢ to \$1.09; and
- (7) Sales of over \$1.09 - straight five percent (5%) with major fractions governing.

"§ 105-501. *Distribution of additional taxes.*—The Secretary shall, on a quarterly basis, distribute the net proceeds of the additional one-half percent ($\frac{1}{2}\%$) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The amount distributed to a taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

"§ 105-502. *Use of additional tax revenue by counties.*—(a) Except as provided by subsection (b) of this section, revenue received by a county under this Article shall be subject to the following restrictions:

- (1) sixty percent (60%) of the revenues received by the county during the first two fiscal years in which the tax is in effect;
 - (2) fifty percent (50%) of the revenues received by the county during the next two fiscal years;
 - (3) forty percent (40%) of the revenues received by the county during the next four fiscal years;
 - (4) thirty percent (30%) of the revenues received by the county during the next two fiscal years; and
 - (5) twenty percent (20%) of the revenues received by the county during the next fiscal year may be used by the county only for public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect.
- (b) The Local Government Commission may, upon petition by a county, authorize a county to use part or all of its tax revenue, otherwise required by subsection (a) to be used for public school capital outlay purposes, for any lawful purpose. The petition shall be in the form prescribed by the Local Government Commission and shall demonstrate that the county can provide for its public school capital needs without restricting the use of part or all of the designated amount of the additional one-half percent ($\frac{1}{2}\%$) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and shall continue in effect until the restrictions imposed by those subsections expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

(d) For purposes of this section in determining the number of fiscal years in which one-half percent ($\frac{1}{2}\%$) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

“§ 105-503. *Report on county spending on public school capital outlay.*—(a) It is the purpose of this Article for counties to appropriate funds generated under this Article to increase the level of county spending for public elementary and secondary school capital outlay (including retirement of indebtedness incurred by the county for this purpose) above

and beyond the level of spending prior to the levy of the additional tax authorized under this Article.

(b) On or before February 15 of each year the Local Government Commission shall furnish to the General Assembly a report of the level of each county's appropriations for public school capital outlay (including retirement of indebtedness incurred and monies reserved for this purpose). The report shall include the amount each county has provided for public school capital outlay for a period including at a minimum the most recent five fiscal years, estimates of public school facility needs, the proportion of revenue from taxes collected under Article 40 of this Chapter that has been provided for public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), the proportion of revenue collected under this Article that has been expended for a public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), and any other factors it deems relevant to carrying out the intent stated in subsection (a) of this section.

(c) Any local board of education may petition the Local Government Commission to make a finding that the funds provided by a county for public school capital outlay purposes are, within the financial resources available and consistent with the fiscal policies of the Board of County Commissioners, inadequate to meet the public school capital outlay needs within that county and that the Board of County Commissioners has not complied with the requirements or intent of this Article. The petition shall be in the form prescribed by the Commission. In making its finding, the Commission shall consider the facts it is required to report under G.S. 105-503, as well as any other information it deems necessary. The Commission shall report its findings on such petition, together with any recommendations it deems appropriate, to the Joint Legislative Commission on Governmental Operations.

“§ 105-504. *Use of additional tax revenue by municipalities.*—(a) Except as provided in subsection (b) or (e), forty percent (40%) of the revenue received by a municipality from additional one-half percent ($\frac{1}{2}\%$) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the municipality and thirty percent (30%) of the revenue received by a municipality from these taxes in the second five fiscal years in which the taxes are in effect in the municipality may be used by the municipality only for water and sewage capital outlay purposes or to retire any indebtedness incurred by the municipality for these purposes.

(b) The Local Government Commission may, upon petition by a municipality, authorize a municipality to use part or all its tax revenue, otherwise required by subsection (a) to be used for water and sewage capital needs, for any lawful purpose. The petition shall be in the form prescribed by the Local Government Commission and shall demonstrate that the municipality can provide for its water and sewage capital needs without restricting the use of part or all of the designated amount of the additional one-half percent ($\frac{1}{2}\%$) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the water and sewage capital needs of the petitioning municipality and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning municipality for any lawful purpose.

Decisions of the Commission allowing municipalities to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and shall continue in effect until the restriction imposed by that subsection expires. A municipality whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) For purposes of determining the number of fiscal years in which one-half percent ($\frac{1}{2}\%$) sales and use taxes levied under this Article have been in effect in a municipality, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

(d) A municipality may expend part of all of the revenue restricted for water and sewage capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the municipality may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

(e) An authorization received by a municipality under G.S. 105-487(c) to use all or part of its tax revenue for any lawful purpose, which is still in effect during any period during which revenues are received under this Article shall, to the extent and duration of its applicability, also apply to the use of revenues received under this Article."

Sec. 2. G.S. 105-486 and 105-493 are each amended by deleting the words "*and use*" from their catch lines.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1600

CHAPTER 907**AN ACT RELATING TO ZONING BY WAKE COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. In addition to the authority conferred upon it by the general and local law, the County of Wake may create by legislative process general use districts, in which a variety of general and special uses are permitted; conditional use districts, in which limited uses are permitted only upon petition of the landowner and upon approval by the County; and overlay zoning districts which may be applied coincidentally with general or special use districts and which may impose additional regulations on all or part of the underlying district or districts. The

County of Wake may promulgate transitional zoning regulations to minimize the effect of potential or proposed development upon dissimilar adjoining districts or uses.

A person petitioning for rezoning of a tract of land where conditional use or overlay districts are authorized by ordinance may elect to request a general use district, a conditional use district, or an overlay district for the tract. If the petitioner requests a general use or an overlay district zoning and if the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use or overlay district. If the petitioner requests conditional use district zoning, the petition must specify the proposed use or uses for all property specified in the petition and may specify all State and local development regulations which will apply to the property if developed as proposed. The use or uses proposed for a conditional use district must be permitted uses in the corresponding general use district. If the petition is for conditional use district zoning, the Board of Commissioners may approve or disapprove the petition on the basis of the specific use or uses and development regulations requested.

It is the further intent of this section to authorize the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and to ensure that substantial justice be done.

Sec. 2. Chapter 333, Session Laws of 1985 is repealed, but such repeal does not affect any actions taken or pending under that act.

Sec. 3. This act applies to Wake County only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1606

CHAPTER 908

AN ACT TO ALLOW THE COUNTY OF DURHAM TO PARTICIPATE IN URBAN DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. (a) Definition. For the purpose of this act, an "urban development project" is defined as a capital project which is comprised of one or more buildings or other improvements and includes both public and private facilities. By way of illustration and not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center, and a privately owned hotel or office building.

(b) Authorization. If the Board of Commissioners of Durham County determines that the County will significantly benefit from the County's participation in the development of an urban development project, as defined, then the County may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of an urban development project, or of specific facilities within such a project, including the making of loans and grants from moneys lawfully available therefor. The County may enter into binding contracts with the City of

Durham or one or more private developers, or both, with respect to acquiring, constructing, owning, or operating such a project. Such a contract shall among other provisions, specify the following:

(1) The property interest of the County and all other participants in the development of the project.

(2) The responsibilities of the County and all other participants in the development of the project.

(3) The responsibilities of the County and all other participants with respect to financing of the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Property acquisition. An urban development project may be constructed on property acquired by the developer or developers, on property acquired by the County, on property acquired by the City, or on property acquired by the County, City, and developers.

(d) Property disposition. The County may lease or convey its interest in urban development projects property or other property owned by it, including air rights over public facilities, through any of the methods authorized in G.S. 153A-176 and G.S. 160A-266 including private negotiation and sale without limitation as to value of the interest conveyed.

(e) Construction of the project. The contract between the County and the developer or developers may provide that the developer or developers shall be responsible for the construction of the entire urban development project. If so, the contract shall include such provisions as the Board of County Commissioners deems sufficient to assure that the public facility or facilities included in the project are constructed at a reasonable price, and the provisions of Article 8 of Chapter 143 of the General Statutes shall not apply to such a project.

(f) Operation. The County may contract for the operation of any public facility or facilities included in an urban development project by any person, firm, or corporation, public or private.

(g) Financing. To assist in the financing of its share of an urban development project, the County may apply for, accept, and expend funds from the federal or State government or any other lawful source.

(h) Other authority. The authority granted by this section is in addition to and not in derogation of any other lawful authority granted to the County by law. The County may exercise any authority granted to it by local act or general statute or law in furtherance of an urban development project. By way of illustration but not of limitation, the County may exercise the following authority in furtherance of an urban development project:

(1) The authority granted in G.S. 153A-176 and Article 12 of Chapter 160A with respect to the public or private sale, lease, rent, exchange, or other conveyance of property.

(2) The authority of G.S. 153A-13 and G.S. 153A-449 with respect to contracts with, and appropriation of money to, persons, associations or corporations for the accomplishment of public purposes.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1608

CHAPTER 909

AN ACT TO EXTEND THE INCOME TAX PERSONAL EXEMPTION FOR PARAPLEGICS AND SIMILARLY DISABLED INDIVIDUALS TO DEPENDENTS WHO ARE PARAPLEGIC OR SIMILARLY DISABLED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149(a)(8d) is rewritten to read:

“(8d) An exemption of one thousand one hundred dollars (\$1,100) for an individual who has one of the following conditions or whose dependent has one of these conditions:

- a. Paraplegia;
- b. Amputation of both legs above the knee; or
- c. A disability that requires the person to use a wheelchair to move about and to function effectively.

This exemption is in addition to all other exemptions allowed by this subsection. To claim this exemption, a taxpayer must attach to his tax return on which he claims the exemption a statement from a physician certifying that the individual or dependent for whom the exemption is claimed has one of the conditions listed above.”

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1625

CHAPTER 910

AN ACT TO PERMIT THE CITY OF WILMINGTON, THE TOWN OF FARMVILLE, THE CITY OF SALISBURY, AND DURHAM COUNTY TO ACCEPT DEEDS TO REAL PROPERTY IN PAYMENT OF LIENS HELD BY THE CITY.

The General Assembly of North Carolina enacts:

Section 1. Acceptance of deed to real property for liens. A city council may accept the deed to real property on which the city has a lien in payment of the tax, special assessment, or other charge underlying the lien, and in payment of the expense of transferring the deed to the city. Acceptance of a deed by the city council under this section does not affect a lien on the property held by anyone other than the city. Property conveyed to the city under this section may be subsequently conveyed by the city under the terms approved by the city council.

Sec. 2. G.S. 105-357(a) is amended by deleting from the second sentence of that subsection the phrase “Deeds to real property, notes” and substituting the word “Notes”.

Sec. 3. (a) When the taxes or any special assessments upon any real property in a county are past due and unpaid, and the owner or owners

thereof offer to convey such real property to the county, the county board of commissioners may accept the deed for such real property in payment of the taxes and special assessments due the county, and to pay the necessary expense of procuring and recording such deed.

(b) The acceptance of such deed by the county board of commissioners shall not interfere with the lien for taxes and assessments due any other taxing unit, and shall not interfere with any other valid recorded lien on such real property at the time of the execution of such deed. Any real property so conveyed to the county may be resold by such unit at any time to such person or persons and for such price as the county board of commissioners may approve.

Sec. 4. Section 1 of this act applies only to the City of Wilmington, the Town of Farmville and the City of Salisbury. Section 2 of this act applies only to the City of Wilmington, the Town of Farmville, the City of Salisbury, and Durham County. Section 3 of this act applies only to Durham County.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1629

CHAPTER 911**AN ACT TO ALLOW LINCOLN COUNTY AND MUNICIPALITIES
LOCATED THEREIN TO ENGAGE IN ECONOMIC DEVELOPMENT
ACTIVITIES.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-7.1(f) is amended by deleting "one-half of one percent (0.05%)" and substituting "one-half of one percent (0.5%)".

Sec. 2. Section 4 of Chapter 639, Session Laws of 1985, is amended by adding immediately after the word "Duplin," the word "Lincoln,".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1633

CHAPTER 912**AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO
CONSTRUCT STREETS OUTSIDE THE CORPORATE LIMITS.**

The General Assembly of North Carolina enacts:

Section 1. Section 1.4 of Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by adding a new sentence at the end of subdivision (3) to read:

"In cooperating with the North Carolina Department of Transportation, to plan, design and construct new streets and sidewalks, and to widen, extend, pave and improve existing streets and sidewalks outside the corporate limits and to acquire the necessary land therefor by dedication and acceptance, purchase or eminent domain."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1647

CHAPTER 913**AN ACT TO REGULATE THE SHINING OF LIGHTS IN DEER AREAS IN COLUMBUS COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to shine a light intentionally upon a deer or to sweep a light in search of deer between the hours of eleven o'clock p.m. and one-half hour before sunrise.

Sec. 2. Section 1 of this act shall not be construed to prevent:

(1) the lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;

(2) the necessary shining of lights by landholders on their own lands;

(3) the shining of lights necessary to normal travel by motor vehicles on roads or highways; or

(4) the use of lights by campers and others who are legitimately in these areas for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

Sec. 3. Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or imprisonment not to exceed 30 days, and punishable for a second conviction within three years by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), by imprisonment not to exceed 90 days or by both.

Sec. 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Sec. 5. This act applies only to Columbus County.

Sec. 6. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1658

CHAPTER 914**AN ACT TO RAISE THE FORCE ACCOUNT CONSTRUCTION LIMIT FOR WATER AND SEWER PROJECTS OF UNION COUNTY.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135 is amended by deleting "seventy-five thousand dollars (\$75,000)", and substituting "one hundred fifty thousand dollars (\$150,000)".

Sec. 2. For any water or sewer improvement estimated to cost more than seventy-five thousand dollars (\$75,000) undertaken under the provisions of this act, the county manager shall maintain a record of all direct and indirect costs of the improvement and such record shall be made available for public review and independent audit.

Sec. 3. This act applies only to construction of water and sewer facilities.

Sec. 4. This act applies to Union County only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1671

CHAPTER 915

AN ACT TO REVISE THE CHARTER OF THE TOWN OF HOPE MILLS.

The General Assembly of North Carolina enacts:

Section 1. Section 4.2 of the Charter of the Town of Hope Mills, being Chapter 650 of the 1981 Session Laws, is amended by deleting the words “, but during tenure of office shall reside within the Town”.

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1675

CHAPTER 916

AN ACT TO MAKE CHAPTER 639 OF THE 1985 SESSION LAWS APPLY TO THE TOWN OF TARBORO.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 639, Session Laws of 1985, is amended by adding the following at the end: “This act also applies to the Town of Tarboro.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 1695

CHAPTER 917

AN ACT TO ALLOW THE NEW HANOVER COUNTY BOARD OF EDUCATION TO CONVEY AT PRIVATE SALE THE PEABODY SCHOOL TO HEADSTART OF NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 115C-518(a) or Article 12 of Chapter 160A of the General Statutes, the New Hanover County Board of Education may convey to Headstart of New Hanover County, Incorporated, at private sale, with or without monetary consideration, any or all of its right, title, and interest to the Peabody Elementary School Property, consisting of several tracts at 509 North 6th Street in Wilmington.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 2086

CHAPTER 918

AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW IN COMPLIANCE WITH FEDERAL LAW REGARDING FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-12(e)D is amended by adding at the end the following:

“Provided, that for any week during a period in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, the weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be reduced by a percentage equivalent to the percentage of the reduction in the federal payment. The reduced weekly extended benefit amount, if not a full dollar amount, shall be rounded to the nearest lower full dollar amount.”

Sec. 2. G.S. 96-12(e)E(a) is amended by adding at the end the following:

“Provided, that during any fiscal year in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, the total extended benefit amount payable to an individual with respect to his applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under G.S. 96-12(e)D and the weekly amounts paid to the individual.”

Sec. 3. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.B. 2105

CHAPTER 919

AN ACT TO PERMIT CERTAIN BEAUTIFICATION DISTRICTS TO HOLD ABC ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-600 is amended by adding a new subsection to read:

“(g) Beautification District Elections. In a county where ABC stores have been approved by an election and a beautification district has been created after May, 1984, and prior to June 30, 1986, an election authorized by subsection (a) of this section may be called in the beautification district. The election shall be called in accordance with G.S. 18B-601(b), conducted, and the results determined in the same manner as county elections held under this Article. For purposes of this Article, beautification districts holding any election shall be treated on the same

basis as counties, and municipalities located within those beautification districts shall be treated on the same basis as cities.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 685

CHAPTER 920

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE THAT MIDTERM VACANCY ELECTIONS SHALL BE HELD WHEN THE VACANCY OCCURS AT LEAST SIXTY DAYS BEFORE THE ELECTION RATHER THAN AT LEAST THIRTY DAYS BEFORE THE ELECTION, SO AS TO EASE THE ADMINISTRATION OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 7(3) of Article III of the Constitution of North Carolina is amended by deleting “30 days”, and substituting “60 days”.

Sec. 2. Section 19 of Article IV of the Constitution of North Carolina is amended by deleting “30 days”, and substituting “60 days”.

Sec. 3. The amendments set forth in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at the general election in November 1986, which election shall be conducted under the laws then governing elections in the State. At that election, each qualified voter who desires to vote shall be provided a ballot on which shall be printed the following:

- ☐ FOR constitutional amendment providing that an election shall be held to fill the remainder of the unexpired term if the vacancy occurs more than 60 days before the next election, rather than 30 days as is presently provided.
- ☐ AGAINST constitutional amendment providing that an election shall be held to fill the remainder of the unexpired term if the vacancy occurs more than 60 days before the next election, rather than 30 days as is presently provided.”

Those qualified voters favoring the amendments shall vote by marking an “X” or check mark in the square beside the statement beginning “FOR”, and those qualified voters opposed to the amendments shall vote by marking an “X” or check mark in the square beside the statement beginning “AGAINST”.

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules prescribed by the State Board of Elections.

Sec. 4. If a majority of votes cast thereon are in favor of the constitutional amendments, the State Board of Elections shall certify the amendments to the Secretary of State who shall enroll the amendments so certified among the permanent records of his office. The constitutional amendments shall become effective January 1, 1987.

Sec. 5. G.S. 163-8 is amended by deleting “30 days”, and substituting “60 days”.

Sec. 6. G.S. 163-9 is amended by deleting “30 days”, and substituting “60 days”.

Sec. 7. G.S. 163-10 is amended by deleting “30 days”, and substituting “60 days”.

Sec. 8. Sections 5 through 8 of this act shall take effect only upon approval of the voters of the constitutional amendments set forth in Sections 1 and 2 of this act. If the constitutional amendments proposed in those sections are approved by the voters, Sections 5 through 8 of this act shall become effective at the same time as the constitutional amendments.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 910

CHAPTER 921

AN ACT TO ALLOW EDGEcombe, PITT, AND WILSON COUNTIES AND MUNICIPALITIES LOCATED THEREIN TO ENGAGE IN ECONOMIC DEVELOPMENT ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-7.1(f) is amended by deleting “one-half of one percent (0.05%)”, and substituting “one-half of one percent (0.5%)”.

Sec. 2. Section 4 of Chapter 639, Session Laws of 1985 is amended by adding at the end: “Section 1 of this act also applies to Edgecombe, Pitt, and Wilson Counties and those municipalities located in those counties.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 931

CHAPTER 922

AN ACT TO CLARIFY THE BOUNDARY LINE BETWEEN THE ICARD AND GEORGE HILDEBRAN FIRE DISTRICTS IN BURKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The boundary of the Icard Fire District in Burke County is as follows:

BEGINNING at a point (1) at the center of the Catawba River at the Burke-Catawba County line; thence southwesterly with said County line to a point (2) 0.2 mile southwest of SR 1783; thence northwesterly to a point (3) at the northernmost intersection of SR 1803 and SR 1818; thence northwesterly to a point (4) in the center of SR 1786 0.1 mile south of its intersection with SR 1791; thence westerly to a point (5) at the top of Drowning Creek Mountain; thence northwesterly toward Smith Mountain to a point (6) on the southeastern boundary of Lovelady Fire District; thence northeasterly following the existing boundaries of Lovelady and Icard Fire Districts to a point (7) 0.2 miles south of the intersection of SR 1611 and SR 1617; thence northerly through said intersection to a point

(8) where Jumping Run enters Lake Rhodhiss; thence easterly to the center of said lake and following the Burke-Caldwell County line to the point (1) of BEGINNING, together with that certain area beginning at the point where the above described boundary line between the Icard Fire District and the George Hildebran Fire District crosses SR 1786 southwardly to its point of intersection with SR 1792, to include all of those properties lying adjacent to or for which ingress and egress is obtained from SR 1786, and continuing southeasterly along SR 1792 to its point of ending to include those properties lying adjacent to or for which ingress and egress is obtained from SR 1792. Excluding from all the above the areas inside the corporate limits of Hickory, Longview, and Rhodhiss.

Sec. 2. The boundary of the George Hildebran Fire District in Burke County is as follows:

BEGINNING at a point (1) on the Burke-Catawba County line 0.2 mile south of SR 1783; thence southwesterly following said County line to a point (2) where it crosses NC 18; thence westerly to a point (3) in the center of SR 1907 0.3 mile east of SR 1912; thence north and westerly to a point (4) in the intersection of SR 1913 and SR 1912; thence northerly crossing SR 1915 0.2 mile north of its intersection with SR 1913 to a point (5) in SR 1916 0.4 mile southwest of its intersection with NC 18; thence westerly to a point (6) 0.5 mile south of the NC 18 bridge over Ball Alley Creek; thence northerly through said bridge and up said creek to a point (7) at its junction with an unnamed creek; thence easterly crossing SR 1001 at its northernmost intersection with SR 1746 to a point (8) at the top of Drowning Creek Mountain; thence easterly to a point (9) in the center of SR 1786 0.1 mile south of its intersection with SR 1791; thence southeasterly to a point (10) at the northernmost intersection of SR 1803 and SR 1818; thence southeasterly to the point (1) of BEGINNING, excepting that certain area beginning at the point where the above described boundary line between the Icard Fire District and the George Hildebran Fire District crosses SR 1786 southwardly to its point of intersection with SR 1792, to include all of those properties lying adjacent to or for which ingress and egress is obtained from SR 1786, and continuing southeasterly along SR 1792 to its point of ending to include those properties lying adjacent to or for which ingress and egress is obtained from SR 1792.

Sec. 3. This act shall become effective June 30, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 949

CHAPTER 923

AN ACT TO AUTHORIZE SWAIN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax. (a) Authorization and Scope. The Swain County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy

a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Distribution and Use of Tax Revenue. Swain County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Swain Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. No more than twenty-five

percent (25%) of the funds remitted to the Authority may be used for salaries, wages, and administrative expenses.

As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Swain County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Tourism Development Authority. (a) Appointment and Membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following five members:

(1) Two tourist-oriented business members appointed by the Swain County Chamber of Commerce; and

(2) Three tourist-oriented business members appointed by the Swain County Board of Commissioners.

The Chamber shall designate one of its initial appointees to serve a two-year term and one to serve a three-year term. The board of commissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two-year term, and one to serve a three-year term. Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the appointing authority of the member who created the vacancy. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

The members of the Authority shall elect from its membership a chairman. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of Swain County shall serve ex officio as the finance officer of the Authority.

(b) Duties. The Authority shall promote travel, tourism, and conventions in Swain County.

(c) Report. The Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the board may require.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 952

CHAPTER 924

AN ACT AUTHORIZING FORSYTH COUNTY TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Part VII of Chapter 908 of the 1983 Session Laws, as amended by Chapter 33 of the 1985 Session Laws, is amended by adding a new section to read:

“Sec. 30.1. Additional Tax. In addition to the tax authorized by Sections 24 and 25 of this Part, the Forsyth County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under those sections. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with Sections 24 through 30 of this Part. Forsyth County may not levy a tax under this section unless it also levies a tax under Sections 24 and 25 of this Part.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 1273

CHAPTER 925

AN ACT TO PROVIDE THAT WHEN A MOTOR VEHICLE IS TRANSFERRED INCIDENT TO ORGANIZATION OF A PARTNERSHIP OR CORPORATION, AND NO GAIN OR LOSS WOULD BE RECOGNIZED FOR INCOME TAX PURPOSES ON SUCH TRANSFER, NO SALES TAX IS DUE ON SUCH TRANSFER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1) is amended by adding the following at the end of the fourth paragraph: “When property is transferred by an individual to a partnership or corporation, and no gain or loss arises as provided by Section 351 or Section 721 of the Code, such transfer is not a sale for the purpose of this subdivision if the transfer is incident to the organization of the partnership or corporation.”

Sec. 2. This section shall become effective with respect to transfers occurring on or after September 1, 1986.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 1300

CHAPTER 926

AN ACT TO EXEMPT STATE OPERATED CURB MARKETS FROM CERTAIN FOOD REGULATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-250 is amended in the first sentence by deleting the phrase “and (iii)” and by substituting the following: “(iii) curb markets operated by the State Agricultural Extension Service; and (iv)”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.B. 180

CHAPTER 927

AN ACT TO CHANGE THE DATE OF THE PRESIDENTIAL PREFERENCE PRIMARY TO THE SECOND TUESDAY IN MARCH, SO AS TO ALLOW FOR A SOUTHERN REGIONAL PRESIDENTIAL PRIMARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-213.2 is amended by deleting “Beginning with the Tuesday after the first Monday in May, 1980, and every four years thereafter”, and substituting “On the second Tuesday in March, 1988, and every four years thereafter”.

Sec. 2. Article 18A of Chapter 163 of the General Statutes is amended by adding a new section to read:

“§ 163-213.11. *Costs of presidential preference primary.*— The State Board of Elections shall reimburse the county boards of elections for their reasonable costs in conducting the Presidential Preference Primary, in accordance with rules adopted by the State Board of Elections.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

S.B. 879

CHAPTER 928

AN ACT TO MAKE SUBSTANTIVE CHANGES IN LAWS REGARDING INSURANCE TAXES AND FEES AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 4, Chapter 97 of the General Statutes, is amended as follows:

(a) By adding the following sentence to G.S. 97-133(a)(4):

“The Association shall pay claims against a self-insurer that are not or have not been paid as a result of a determination of insolvency or the institution of bankruptcy or receivership proceedings that occurred prior to the effective date of this Article; provided that any assessments made

to pay such claims may be credited towards the tax paid by the self-insurers under G.S. 97-100.”

(b) By adding the following section:

“§ 97-138. *Tax exemption.*—The Association shall be exempt from payment of all fees and all taxes levied by this State or any of its political subdivisions, except taxes levied on real or personal property.”

Sec. 2. Effective July 1, 1986, G.S. 58-41.1(d) is amended by inserting between “section;” and “and such” the following: “the Commissioner is authorized to charge a reasonable fee not to exceed thirty-five dollars (\$35.00), in addition to the registration fee charged under G.S. 105-228.7, to offset the cost of the examination contract authorized by this subsection;”.

Sec. 3. Effective July 1, 1986, G.S. 58-41.1(e) is amended by inserting “and in subsection (d) of this section” immediately after “G.S. 105-228.7”.

Sec. 4. G.S. 57-12 is amended by substituting “ten dollars (\$10.00)” for “two dollars (\$2.00)”.

Sec. 5. G.S. 57B-13 is amended by adding the following sentence:

“Licensing and examination fees shall be those for insurance agents under G.S. 105-228.7.”

Sec. 6. G.S. 58-433(b)(4) is amended by substituting “ten thousand dollars (\$10,000)” for “fifty thousand dollars (\$50,000)”.

Sec. 7. G.S. 58-438 is rewritten to read:

“§ 58-438. *Collection of tax.*—All provisions of Chapter 105 of the General Statutes, not inconsistent with this Article, relating to administration, auditing and making returns, the imposition and collection of tax and the lien thereon, assessments, refunds, and penalties, shall be applicable to the tax imposed by this Article; and with respect thereto, the Commissioner has the same power and authority as is given to the Secretary of Revenue under the provisions of Chapter 105 of the General Statutes.”

Sec. 8. Article 40 of Chapter 58 of the General Statutes, is amended by adding a new section to read:

“§ 58-511. *Taxes.*—(a) The tax provided by Article 8B of Chapter 105 of the General Statutes is imposed on each risk retention group.

(b) A risk retention group is subject to taxation under and is considered to be an insurer for the purpose of assessing and collecting taxes as provided by Article 8B of Chapter 105 of the General Statutes.

(c) An agent shall report and pay the taxes on the premiums for risks that he has placed with or on behalf of a risk retention group that is not chartered in this State in the same manner for reporting and paying taxes as provided by Article 36 of this Chapter.”

Sec. 9. G.S. 105-228.7 is amended by:

(a) Adding to the schedule in the first paragraph the following:

“Surplus lines individual	\$50.00
Surplus lines corporate	25.00
Persons licensed under G.S. 58-41.5	25.00
G.S. Chapter 57 agent	10.00
G.S. Chapter 57B agent	10.00”

(b) Rewriting the fourth paragraph to read:

"Any person not registered who is required by law or administrative rule to secure a license shall, upon application for registration, pay to the Commissioner of Insurance a fee of ten dollars (\$10.00). In the event additional licensing for other lines of insurance is requested, a fee of ten dollars (\$10.00) shall be paid to the Commissioner upon application for registration for each additional line of insurance. The requirement for an examination or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations specified in G.S. 105-228.4."

Sec. 10. Chapter 58 of the General Statutes is amended by adding a new G.S. 58-173.16A to Article 18A and a new G.S. 58-173.29 to Article 18B, which shall each have the following section heading and text:

"Premium taxes to be paid through association to Commissioner.—All premium taxes due on insurance written under this Article shall be remitted by each insurer to the association; and the association, as collecting agent for its member companies, shall forward all such taxes to the Commissioner as provided in Article 8B of Chapter 105 of the General Statutes."

Sec. 11. G.S. 58-437(c) is rewritten to read:

"(c) The section does not apply to insurance on risks of the State government, counties, municipal corporations, or any agency thereof."

Sec. 12. G.S. 105-228.3 is amended by inserting "advisory organization, joint underwriting or joint reinsurance organization," between "ratemaking bureau or association," and "or to serve".

Sec. 13. G.S. 97-100 is amended by adding a new subsection (k) to read as follows:

"(k) Every group of two or more employers who have pooled their liabilities pursuant to G.S. 97-93 shall pay a tax upon premiums received in this State in the same manner as the tax is calculated and paid by insurance carriers insuring employers in this State and set forth in subsections (c), (d), (e), and (f) above."

Sec. 14. Sections 4 through 9 of this act shall become effective September 1, 1986. Section 1 of this act shall become effective October 1, 1986. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

S.B. 896

CHAPTER 929

AN ACT TO ALLOW THE LEVY OF A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX IN THE CITIES OF CONOVER, GOLDSBORO, HENDERSONVILLE, AND HICKORY.

The General Assembly of North Carolina enacts:

Section 1. Levy of Tax. (a) The Cities of Hickory and Conover may by joint resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax. The Cities of Goldsboro and Hendersonville may by resolution, after not less than 10 days public notice and after a public

hearing held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability, therefore, shall begin and continue only on and after the first day of a calendar month set in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 2. Occupancy Tax. (a) The room occupancy and tourism development tax that may be levied under this act shall not be less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the levying unit now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax.

(b) Any other municipality in Catawba County may by resolution provide for levy of an occupancy tax when accommodations exist within that jurisdiction. The provisions, procedures and limitations of this act shall apply to such municipalities. Jurisdictions other than Hickory and Conover that levy the tax under this act may provide funds to the Tourism Development Advisory Council but are not required to do so. Funds not so provided may be used for purposes permitted by law. This subsection shall not apply to the Cities of Goldsboro and Hendersonville.

Sec. 3. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) a business that offers to rent fewer than five units;
- (3) educational organizations;
- (4) summer camps; and
- (5) charitable, benevolent, and other nonprofit organizations.

Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable to the levying jurisdiction in monthly installments on or before the 25th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 25th day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's omission as provided by the State under G.S. 160A-175.

(c) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by the law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

Sec. 5. Collection of Tax. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect room occupancy tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. This tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the governing bodies. The room occupancy tax levied pursuant to this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The levying jurisdictions shall design, print, and furnish to all appropriate businesses in the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 6. Disposition of Taxes Collected. (a) The taxing city shall remit one hundred percent (100%) of the net proceeds of the occupancy tax to the Tourism Development Advisory Council. "Net proceeds" means gross proceeds.

(b) The Tourism Development Advisory Council shall allocate 100 percent (100%) of the net proceeds of the occupancy tax in a fiscal year for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a civic center facility and development of tourism, support services, tourist-related events and any other appropriate activities for providing tourism-related facilities and/or attractions.

(c) Provision of a civic center facility shall be a priority use of funds.

(d) The taxing city shall distribute the amounts due to the Tourism Development Advisory Council monthly.

(e) The levying jurisdiction may contract with another governmental unit to collect and disperse the funds directly to the Tourism Development Advisory Council.

Sec. 7. Appointment, Duties of the Tourism Development Advisory Council. (a) When the Cities of Hickory, Goldsboro and Conover adopt a resolution levying a tax under this act, they shall also adopt a resolution creating a Tourism Development Advisory Council. When the City of Goldsboro or Hendersonville adopts a resolution levying a tax under this act, it shall adopt a resolution creating a Tourism Development Advisory Council. The membership of the Hickory/Conover Tourism Development Advisory Council, the membership of the Goldsboro Tourism Development Advisory Council, and the membership of the Hendersonville Tourism Development Advisory Council are as follows:

(1) Three owners/operators of hotels, motels, or other taxable accommodations in the Cities of Hickory and Conover; two of whom shall be appointed by the Hickory City Council and one appointed by Conover City Council. The City of Goldsboro shall appoint three owners/operators of hotels, motels, or other taxable tourism accommodations to its Tourism Development Advisory Council. The City of Hendersonville shall appoint three owners/operators of hotels, motels, or other taxable tourism accommodations to its Tourism Development Advisory Council.

(2) Three individuals who have demonstrated an interest in convention and tourism development and do not own or operate hotels, motels, or other taxable tourism accommodations, one of whom shall be

appointed by the Catawba County Chamber of Commerce, one appointed by the Hickory City Council and one by the Conover City Council. The City of Goldsboro shall appoint three individuals who have demonstrated an interest in conventions and tourism development in the Goldsboro area, and who do not own or operate hotels, motels, or other taxable tourism accommodations. The City of Hendersonville shall appoint to its Tourism Development Advisory Council three individuals who have demonstrated an interest in conventions and tourism development in the Hendersonville area, and who do not own or operate hotels, motels, or other taxable tourism accommodations.

(3) Three ex officio members shall be the City Managers of Hickory and Conover and Executive Vice President of the Catawba County Chamber of Commerce. If other municipal corporations levy the tax and allocate same to the Council, their chief appointed official, as defined in N.C. General Statutes, Chapter 160A, Article 7, Part 2, shall also serve as an ex officio member of the Council. The City of Goldsboro shall appoint three ex officio members which shall include the city manager, the executive vice-president of the Goldsboro Chamber of Commerce, and the mayor of the City of Goldsboro. The City of Hendersonville shall appoint the following three ex officio members to its Tourism Development Advisory Council: a member of the Henderson County Board of Commissioners, the executive vice-president of The Greater Hendersonville Chamber of Commerce, and the mayor of the City of Hendersonville.

(b) All members of the Council shall serve without compensation. Travel expenses, as approved in the annual budget, may be provided by the Tourism Development Advisory Council. Vacancies in the Council shall be filled by the appointing authority of the member creating the vacancy.

(c) Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms which will be staggered and may serve no more than two consecutive three-year terms. The members shall elect a chairperson and treasurer, who shall serve for a term of two years. The Council shall meet at the call of the chairperson and shall adopt rules of procedure to govern its meeting as provided by Robert's Rules of Order.

Sec. 8. Contracts Authorized. (a) The Tourism Development Advisory Council may contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds are levied by this act or other revenues.

(b) The Tourism Development Advisory Council shall prepare an annual budget and shall report quarterly and at the close of the fiscal year to the governing body that has jurisdiction of activities pursuant to Section 6(b) and 6(c) of this act on their receipts and expenditures for the preceding quarter and year in such detail as the municipal corporation may require. An audit will be conducted as part of the municipal corporation's audit contract.

Sec. 9. Repeal of Levy. (a) The Cities of Hickory and Conover may by joint resolution repeal the levy of the room occupancy tax levied by them. The Cities of Goldsboro and Hendersonville may by resolution repeal the levy of the room occupancy tax levied by them. No repeal of

taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Sec. 10. Legislation enacted to authorize all counties to levy a room occupancy tax repeals this act unless the statewide act specifically exempts this act.

Sec. 10.1. Section 10 does not apply to the Cities of Goldsboro and Hendersonville.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

S.B. 918

CHAPTER 930

AN ACT TO MAKE CHANGES IN PROCEDURES FOR LEVY OF THE STATESVILLE OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 24 of Chapter 570, Session Laws of 1985 is amended by adding immediately after the word "authority," the words "adopt a resolution that the city intends to pursue and develop goals involving a civic center and travel and tourism in the City of Statesville,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

S.B. 925

CHAPTER 931

AN ACT TO AMEND THE APPLICATION FEE AND COST RECOVERY PROVISIONS RELATED TO THE IV-D CHILD SUPPORT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-130.1(a) is amended by deleting the language "a ten dollar (\$10.00) application fee" and substituting "an appropriate nonrefundable application fee." For applicants whose gross household income is equal to or less than two hundred percent (200%) of the then currently established poverty level applicable to the applicant's household size, the application fee shall be five dollars (\$5.00). For applicants whose gross household income exceeds such poverty level, the application fee shall be twenty-five dollars (\$25.00).

For purposes of this section, 'household income' means the sum of the gross amount of periodically recurring income which accrues to the members of a collective group of individuals living in one residence consisting of a natural or adoptive parent who has custody of a dependent child or children whose other natural or adoptive parent is absent from the residence, the custodial parent's current spouse, and all other

dependent children. 'Household size' means the sum of the persons specified as living in the residence as described above."

Sec. 2. G.S. 110-130.1 is amended by rewriting subsection (b) and adding a new subsection (b1) to read:

"(b) Except for the application fee, the State shall not recover the costs or fees of providing services to a non-AFDC client whose household income is equal to or less than two hundred percent (200%) of the federal poverty guidelines.

(b1) The State shall recover the actual costs of providing services to a non-AFDC client whose gross household income exceeds two hundred percent (200%) of the then currently established federal poverty level applicable to the client's household size until all costs incurred on the client's behalf have been recovered. The rate of accrual of such costs shall be computed annually by the Department of Human Resources and disclosed at the time of application to the client as an hourly dollar amount for administrative services and an hourly dollar amount for attorney's services. Incurred costs may be recovered by any or all of the following means:

- (1) a ten percent (10%) deduction from any support received;
- (2) voluntary payments from either the responsible parent or client;
- (3) payments by the responsible parent which the court may order, only if such payments do not reduce the responsible parent's ability to pay current support and arrears.

The appropriate judicial official shall be informed of the available cost recovery methods at the time a support order is sought.

A client from whom costs can be recovered pursuant to this subsection shall be liable for prepayment of any necessary court filing fees and paternity blood testing fees.

In all cases where ongoing enforcement services are being provided to a client from whom costs can be recovered pursuant to this subsection, or in cases in which ongoing enforcement services are no longer being provided but for whom costs were incurred and can be recovered pursuant to this subsection, or in cases in which a public assistance debt which accrued pursuant to G.S. 110-135 remains unrecovered, support payments shall be transmitted to the Department of Human Resources for appropriate distribution. When services are terminated and all costs and any public assistance debts have been satisfied, the support payment shall be redirected to the client.

Any costs incurred pursuant to this section shall constitute a debt owed to the State by the client. Any costs ordered by the court under subdivision (3) above shall constitute a debt owed to the State by the responsible parent. Payment may be demanded from either or both of them."

Sec. 3. Section 6 of Chapter 781 of the 1985 Session Laws is amended by deleting the language "and shall expire June 30, 1987".

Sec. 4. This act shall become effective September 1, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 170

CHAPTER 932

AN ACT TO PROVIDE ADDITIONAL REMEDIES FOR VIOLATIONS OF THE OPEN MEETINGS LAW.

The General Assembly of North Carolina enacts:

Section 1. Article 33C of Chapter 143 of the General Statutes is amended by adding a new section to read:

“§ 143-318.16A. *Additional remedies for violations of Article.*—(a) Any person may institute a suit in the superior court requesting the entry of a judgment declaring that any action of a public body was taken, considered, discussed, or deliberated in violation of this Article. Upon such a finding, the court may declare any such action null and void. Any person may seek such a declaratory judgment, and the plaintiff need not allege or prove special damage different from that suffered by the public at large. The public body whose action the suit seeks to set aside shall be made a party. The court may order other persons be made parties if they have or claim any right, title, or interest that would be directly affected by a declaratory judgment voiding the action that the suit seeks to set aside.

(b) A suit seeking declaratory relief under this section must be commenced within 45 days following the initial disclosure of the action that the suit seeks to have declared null and void; provided, however, that any suit for declaratory judgment brought pursuant to this section that seeks to set aside a bond order or bond referendum shall be commenced within the limitation periods prescribed by G.S. 159-59 and G.S. 159-62. If the challenged action is recorded in the minutes of the public body, its initial disclosure shall be deemed to have occurred on the date the minutes are first available for public inspection. If the challenged action is not recorded in the minutes of the public body, the date of its initial disclosure shall be determined by the court based on a finding as to when the plaintiff knew or should have known that the challenged action had been taken.

(c) In making the determination whether to declare the challenged action null and void, the court shall consider the following and any other relevant factors:

- (1) The extent to which the violation affected the substance of the challenged action;
- (2) The extent to which the violation thwarted or impaired access to meetings or proceedings that the public had a right to attend;
- (3) The extent to which the violation prevented or impaired public knowledge or understanding of the people's business;
- (4) Whether the violation was an isolated occurrence, or was a part of a continuing pattern of violations of this Article by the public body;
- (5) The extent to which persons relied upon the validity of the challenged action, and the effect on such persons of declaring the challenged action void;

(6) Whether the violation was committed in bad faith for the purpose of evading or subverting the public policy embodied in this Article.

(d) A declaratory judgment pursuant to this section may be entered as an alternative to, or in combination with, an injunction entered pursuant to G.S. 143-318.16."

Sec. 2. Article 33C of Chapter 143 of the General Statutes is further amended by adding a new section to read:

"§ 143-318.16B. *Attorney's fees awarded to prevailing party.*—In any action brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A, the court shall make written findings specifying the prevailing party or parties, and shall award the prevailing party or parties a reasonable attorney's fee, to be taxed against the losing party or parties as part of the costs."

Sec. 3. G.S. 143-318.16(c) is repealed.

Sec. 4. G.S. 143-318.10(b) is amended by adding the following at the end: "In addition, for the purposes of this Article 'public body' means any nonprofit corporation to which a hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of that nonprofit corporation, and any nonprofit corporation owning the corporation to which the hospital facility has been sold or conveyed."

Sec. 5. G.S. 143-318.11 is amended by adding a new subdivision to read:

"(20) To consider and authorize acquisitions, mergers, joint ventures, or other competitive business activities by or on behalf of: (1) a hospital facility and a nonprofit corporation to which it has been sold or conveyed pursuant to G. S. 131E-8; (2) any nonprofit corporation owning the corporation to which the hospital facility has been sold or conveyed; or (3) any subsidiary of either nonprofit corporation."

Sec. 6. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 306

CHAPTER 933

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO PERMIT THE GENERAL ASSEMBLY TO GRANT TO THE STATE AND OTHER PUBLIC BODIES IN THE STATE ADDITIONAL POWERS TO DEVELOP NEW AND EXISTING SEAPORTS AND AIRPORTS, INCLUDING POWERS TO FINANCE AND REFINANCE FOR PUBLIC AND PRIVATE PARTIES SEAPORT AND AIRPORT AND RELATED FACILITIES AND IMPROVEMENTS.

The General Assembly of North Carolina enacts:

Section 1. A new section is hereby added to Article V of the Constitution of North Carolina to read as follows:

"Sec. 12. *Seaport and airport facilities.*

(1) Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to grant to the State, counties, municipalities, and other State and local governmental entities all powers

useful in connection with the development of new and existing seaports and airports, and to authorize such public bodies:

- (a) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interests therein;
- (b) to finance and refinance for public and private parties seaport and airport facilities and improvements which relate to, develop or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements; and
- (c) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of their properties associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 1986, which election shall be conducted under the laws then governing elections in the State. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

- ☐ FOR Constitutional amendment to assist in the development of new and existing seaports and airports without creating a debt secured by the faith and credit of the State or any other public body by permitting the General Assembly to grant to the State and other public bodies additional powers to develop new and existing seaports and airports, including powers to finance and refinance for public and private parties seaport and airport related commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements.
- ☐ AGAINST Constitutional amendment to assist in the development of new and existing seaports and airports without creating a debt secured by the faith and credit of the State or any other public body by permitting the General Assembly to grant to the State and other public bodies additional powers to develop new and existing seaports and airports, including powers to finance and refinance for public and private parties seaport and airport related commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by making an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to that amendment shall vote by making an X or check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. Section 1 of Chapter 795, 1985 Session Laws, is amended by rewriting G.S. 159-83(c)(3) to read as follows:

"(3) To secure any such financing or refinancing by all or any portion of its revenues, income or assets or other available monies associated with any of its seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of its properties associated with any of its seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of its faith and credit."

Sec. 5. Chapter 795, 1985 Session Laws, is amended by deleting Section 4.1 and by deleting the first sentence of Section 5.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1459

CHAPTER 934

AN ACT TO MAKE THE DEFINITION OF A CITY THE SAME UNDER THE CITY AND COUNTY LAWS, AND TO CONFORM TO AN ATTORNEY GENERAL'S OPINION AS TO THE ELIGIBILITY OF CITIES INCORPORATED BEFORE 1945 FOR POWELL BILL ALLOCATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-1(2) is amended by adding the following at the end: "The terms 'city' or 'incorporated municipality' do not include a municipal corporation that, without regard to its date of incorporation, would be disqualified from receiving gasoline tax allocations by G.S. 136-41.2(a), except that the end of status as a city under this sentence shall not affect the levy or collection of any tax or assessment, or any criminal or civil liability, and shall not serve to escheat any property until five years after the end of such status as a city, or until September 1, 1991, whichever comes later."

Sec. 2. G.S. 105-472 is amended by deleting "incorporated cities and towns", and substituting "cities as defined by G.S. 153A-1(1)".

Sec. 3. G.S. 105-33(e) is amended by adding the following at the end: "For the purpose of this subsection, a municipality does not include an incorporated municipality unless it is a city as defined by G.S. 153A-1(1), but such lack of status as a city does not prevent it from being an "unincorporated place or town" as defined by this subsection.

Sec. 4. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-41.2A. *Eligibility for funds; municipalities incorporated before January 1, 1945.*—(a) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has within the four-year period next preceding the annual allocation of funds conducted an election for the purpose of electing municipal officials and currently imposes an ad valorem tax or provides other funds for the general operating expenses of the municipality.

(b) The provisions of this section apply only to municipalities incorporated prior to January 1, 1945."

Sec. 5. Section 3 ½ of Chapter 854, Session Laws of 1963 is repealed.

Sec. 6. G.S. 136-41.2(d) as it appears in the 1981 Replacement Volume 3B of the General Statutes is reenacted.

Sec. 7. This act shall become effective September 1, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1460

CHAPTER 935

AN ACT TO REQUIRE CITIES AND COUNTIES TO FILE CERTIFIED TRUE COPIES OF HOME RULE CHARTER AMENDMENTS WITH THE SECRETARY OF STATE AND THE LEGISLATIVE LIBRARY.

The General Assembly of North Carolina enacts:

Section 1. Part 4 of Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-64. *Filing results of election.*— If the proposition is approved under G.S. 153A-61, a certified true copy of the resolution and a copy of the abstract of the election shall be filed with the Secretary of State, Supreme Court Library, and with the Legislative Library."

Sec. 2. Part 4 of Article 5 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-111. *Filing certified true copies of charter amendments.*—The city clerk shall file a certified true copy of any charter amendment adopted under this Part with the Secretary of State, Supreme Court Library, and the Legislative Library."

Sec. 3. G.S. 160A-496(b) is amended by adding the following new language at the end: "The city clerk shall file a certified true copy of the ordinance with the Secretary of State, Supreme Court Library, and with the Legislative Library."

Sec. 4. This act applies with respect to resolutions approved, and amendments and ordinances adopted, on or after September 1, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1562

CHAPTER 936

AN ACT TO MAKE OMNIBUS AMENDMENTS CONCERNING LOCAL GOVERNMENTS IN ORANGE AND CHATHAM COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473, Session Laws of 1975, as amended is amended by adding a new Article to read:

“Article 7. Impact Fees.

“Sec. 5.34. *Impact Fees Authorized.*

(a) The Town Council may provide by ordinance for a system of impact fees to be paid by developers to help defray the costs to the Town of constructing certain capital improvements, the need for which is created in substantial part by the new development that takes place within the Town and its extraterritorial planning area.

(b) For purposes of this Article, the term capital improvements includes capital improvements to public streets, bridges, sidewalks, bikeways, on and off street surface water drainage ditches, pipes, culverts, other drainage facilities, and public recreation facilities.

(c) An ordinance adopted under this Article may be made applicable to all development that occurs within the Town and its extraterritorial planning area, as established by local act or pursuant to the procedures set forth in G.S. 160A-360.

(d) The Town may, with the approval of the Orange County Board of Commissioners, construct capital improvements outside the Town limits but within the Town's extraterritorial planning area and may cooperate with the State in the construction of capital improvements to State highway system streets within this area as well as within the Town.

“Sec. 5.35. *Amount of Fees.*

(a) In establishing the amount of any impact fee, the Town shall endeavor to approach the objective of having every development contribute to a capital improvements fund an amount of revenue that bears a reasonable relationship to that development's fair share of the costs of the capital improvements that are needed in part because of that development. In fulfilling this objective, the Town Council shall, among other steps and actions:

- (1) Estimate the total cost of improvements by category (e.g., streets, sidewalks, drainage ways, etc.) that will be needed to provide in a reasonable manner for the public health, safety and welfare of persons residing within the Town and its extraterritorial planning area during a reasonable planning period not to exceed 20 years. The Council may divide the Town and its extraterritorial area into two or more districts and estimate the costs of needed improvements within each district. These estimates shall be periodically reviewed and updated, and the planning period used may be changed from time to time.

- (2) Establish a percentage of the total costs of each category of improvement that, in keeping with the objective set forth above, should fairly be borne by those paying the impact fee.
- (3) Establish a formula that fairly and objectively apportions the total costs that are to be borne by those paying impact fees among various types of developments. By way of illustration without limitation:
 - a. In the case of street improvements, the impact fee may be related to the number of trips per day generated by different types of uses according to recognized estimates;
 - b. In the case of drainage improvements, the impact fee may be related to the size of a development, the amount of impervious surface the development has, or other factors that bear upon the degree to which a development contributes to the need for drainage improvements made at public expense.

“Sec. 5.36. Capital Improvements Reserve Funds: Expenditures.

(a) Impact fees received by the Town shall be deposited in a capital improvements reserve fund or funds established under Chapter 159 of the General Statutes, Article 3, Part 2. Such funds may be expended only on the type of capital improvements for which such impact fees were established, and then only in accordance with the provisions of subsection (b) of this section.

(b) In order to ensure that impact fees paid by a particular development are expended on capital improvements that benefit that development, the Town may establish for each category of capital improvement for which it collects an impact fee at least two geographical districts or zones, and impact fees generated by developments within those districts or zones must be spent on improvements that are located within or that benefit property located within those districts or zones.

“Sec. 5.37. Credits for Improvements.

An ordinance adopted under this Article shall make provision for credits against required fees when a developer installs improvements of a type that generally would be paid for by the Town out of a capital reserve account funded by impact fees. The ordinance may spell out the circumstances under which a developer will be allowed to install such improvements and receive such credits.

“Sec. 5.38. Appeals Procedure.

An ordinance adopted under this Article may provide that any person aggrieved by a decision regarding an impact fee may appeal to the Chapel Hill Board of Adjustment. If the ordinance establishes an appeal procedure, it shall spell out the time within which the appeal must be taken to the board of adjustment, the possible grounds for an appeal and the board's authority in the matter, whether the fee must be paid prior to resolution of the appeal, and other procedural or substantive matters related to appeals. Any decision by the board of adjustment shall be subject to review by the superior court by proceedings in the nature of *certiorari* in the same manner as is provided in G.S. 160A-388(e).

“Sec. 5.39. Payment of Impact Fees.

An ordinance adopted under this Article shall spell out when in the process of development approval and construction impact fees shall be paid

and by whom. By way of illustration without limitation, the ordinance may provide that an applicant for a building permit shall submit the impact fee along with the permit application and that building permits shall not be issued until the impact fee has been paid.

"Sec. 5.40. Refunds.

If this Article or any ordinance adopted thereunder is declared to be unconstitutional or otherwise invalid, then any impact fees collected shall be refunded thereunder to the person paying them together with interest at the same rate paid by the Secretary of Revenue on refunds for tax overpayments.

"Sec. 5.41. Limitations on Actions.

(a) Any action contesting the validity of an ordinance adopted under this Article must be commenced not later than nine months after the effective date of such ordinance.

(b) Any action seeking to recover an impact fee must be commenced not later than nine months after the impact fee is paid."

Sec. 2. (a) There is hereby established the Orange County Hazardous Materials Response Team, whose duties may include responding to a hazardous materials accident or emergency anywhere within Orange County.

(b) Members of the response team may be selected from city, county, State or other law enforcement agencies, fire departments, and rescue squads now located or serving in any part of Orange County. The manner of selecting the members shall be approved by the county emergency management coordinator or other county official designated by the board of county commissioners. A current membership roster shall be maintained at all times by the county manager.

(c) Members of the response team, when responding to a hazardous materials accident or emergency anywhere within the county, shall have all authority, rights, privileges and immunities as they have when responding to a law violation, accident or emergency inside the city, district, or territorial limits in which they normally serve. This shall include, but is not limited to, coverage under workmen's compensation laws, pension or relief fund laws, death benefit acts, and the same insurance coverage as in the city, district, or territory where the member normally serves or is employed.

(d) Members of the response team shall have authority to do all acts reasonably necessary to protect life and property at the scene of a hazardous materials accident or emergency. Any person who shall willfully interfere in any manner with a response team member engaged in the performance of his duties shall be guilty of a misdemeanor punishable by a fine of five hundred dollars (\$500.00), imprisonment for no more than 60 days, or both.

(e) A response team member who is performing his duties as such anywhere in the county shall not be liable for damages to persons or property proximately resulting from any negligent act or omission when the act or omission relates to a hazardous materials accident or emergency, unless it is established that the damage occurred because of the gross negligence or intentional wrongdoing of the response team member.

(f) This section applies to Orange County only.

Sec. 3. (a) Article 7 of Chapter 20 of the North Carolina General Statutes is amended by adding a new section to read:

“§ 20-219.4. *Removal of unauthorized vehicles from private property.*—(a) Subject to subsection (b) of this section, any motor vehicle left on private property for more than 24 hours without permission of the person or party having possession (actual or constructive) of such property may be removed by or at the direction of such party to a place of storage, and the registered owner of such motor vehicle shall become liable for removal and storage charges. No person shall be held to answer in any civil or criminal action to any owner, lien holder or other person legally entitled to the possession of any motor vehicle removed under this section except where the person or party against whom liability is asserted acted maliciously in directing the removal of the vehicle or negligently in towing or storing the vehicle.

(b) The provisions of subsection (a) shall apply only to the following areas:

- (1) Private roads, including shoulders, sidewalks, and medians, that are adjacent to such, so long as at every entrance to such private road or at every entrance to a subdivision or development containing private roads, there is prominently displayed a sign that contains the following message or any equally explicit message, printed in letters at least three inches high: ‘Private Road, No Parking In Or Along Road, Violators Towed At Their Expense.’ Such sign shall also display a telephone number to be called for information about a towed vehicle.
 - (2) Privately owned parking lots or areas, regardless of whether such lots or areas fall within the definition of ‘public vehicular areas’ contained in G.S. 20-4.01(32), so long as there is prominently displayed at every entrance to such lots or areas a sign that clearly informs, in letters at least three inches in height, any person driving a motor vehicle onto such lot or areas:
 - a. Either that (i) parking within such lot is restricted in a manner indicated in such entrance sign, or (ii) parking within such lot is restricted in a manner indicated in signs placed throughout the lot, (and such signs are placed in such a manner and location as reasonably to inform persons seeking to park in specific spaces what limitations apply to such spaces); and
 - b. That violators may be towed at their expense; and
 - c. The telephone number to be called for information about a towed vehicle.
 - (3) Any driveway or parking space that is manifestly designed to serve a single family or two-family private residence, as well as any other private property that is manifestly not designed or intended for the parking of motor vehicles.
- (c) A property owner or possessor who removes a vehicle or has a vehicle removed pursuant to this section shall immediately thereafter contact the local law enforcement agency (municipal police department or, if the property from which the vehicle is removed is located outside the corporate limits of a municipality, the county sheriff’s department) and

inform such agency that the vehicle has been removed, who removed it, why it was removed, and where it can be reclaimed, and shall provide such agency with the registration plate number or other identification of such vehicle.

(d) This section shall apply only to the Town of Carrboro, and applies only within the corporate limits of that Town."

Sec. 4. (a) Effective July 1, 1986, Chapter 595, Session Laws of 1985, is repealed. Effective January 1, 1987, Chapter 595, Session Laws of 1985, is reenacted.

(b) This section applies only to Chatham County and incorporated municipalities located therein.

Sec. 5. Chapter 351 of the Session Laws of 1985 (the Charter of the Town of Hillsborough) is amended by adding a new Article to read:

"Article 5. Impact Fees.

"Sec. 5.1. *Impact Fees Authorized.*

(a) The Board of Commissioners may provide by ordinance for a system of impact fees to be paid by developers to help defray the costs to the Town of constructing certain capital improvements, the need for which is created in substantial part by the new development that takes place within the Town and its extraterritorial planning area.

(b) For purposes of this Article, the term capital improvements includes capital improvements to public streets, bridges, sidewalks, bikeways, on and off street surface water drainage ditches, pipes, culverts, other drainage facilities, and public recreation facilities.

(c) An ordinance adopted under this Article may be made applicable to all development that occurs within the Town and its extraterritorial planning area, as established by local act or pursuant to the procedures set forth in G.S. 160A-360.

(d) The Town may, with the approval of the Orange County Board of Commissioners, construct capital improvements outside the Town limits but within the Town's extraterritorial planning area and may cooperate with the State in the construction of capital improvements to State highway system streets within this area as well as within the Town.

"Sec. 5.2. *Amount of Fees.*

(a) In establishing the amount of any impact fee, the Town shall endeavor to approach the objective of having every development contribute to a capital improvements fund an amount of revenue that bears a reasonable relationship to that development's fair share of the costs of the capital improvements that are needed in part because of that development. In fulfilling this objective, the Board of Commissioners shall, among other steps and actions:

- (1) Estimate the total cost of improvements by category (e.g., streets, sidewalks, drainage ways, etc.) that will be needed to provide in a reasonable manner for the public health, safety and welfare of persons residing within the Town and its extraterritorial planning area during a reasonable planning period not to exceed 20 years. The Council may divide the Town and its extraterritorial area into two or more districts and estimate the costs of needed

improvements within each district. These estimates shall be periodically reviewed and updated, and the planning period used may be changed from time to time.

- (2) Establish a percentage of the total costs of each category of improvement that, in keeping with the objective set forth above, should fairly be borne by those paying the impact fee.
- (3) Establish a formula that fairly and objectively apportions the total costs that are to be borne by those paying impact fees among various types of developments. By way of illustration without limitation:
 - a. In the case of street improvements, the impact fee may be related to the number of trips per day generated by different types of uses according to recognized estimates;
 - b. In the case of drainage improvements, the impact fee may be related to the size of a development, the amount of impervious surface the development has, or other factors that bear upon the degree to which a development contributes to the need for drainage improvements made at public expense.

"Sec. 5.3. Capital Improvements Reserve Funds; Expenditures.

(a) Impact fees received by the Town shall be deposited in a capital improvements reserve fund or funds established under Chapter 159 of the General Statutes, Article 3, Part 2. Such funds may be expended only on the type of capital improvements for which such impact fees were established, and then only in accordance with the provisions of subsection (b) of this section.

(b) In order to ensure that impact fees paid by a particular development are expended on capital improvements that benefit that development, the Town may establish for each category of capital improvement for which it collects an impact fee at least two geographical districts or zones, and impact fees generated by developments within those districts or zones must be spent on improvements that are located within or that benefit property located within those districts or zones.

"Sec. 5.4. Credits for Improvements. An ordinance adopted under this Article shall make provision for credits against required fees when a developer installs improvements of a type that generally would be paid for by the Town out of a capital reserve account funded by impact fees. The ordinance may spell out the circumstances under which a developer will be allowed to install such improvements and receive such credits.

"Sec. 5.5. Appeals Procedure. An ordinance adopted under this Article may provide that any person aggrieved by a decision regarding an impact fee may appeal to the Hillsborough Board of Adjustment. If the ordinance establishes an appeal procedure, it shall spell out the time within which the appeal must be taken to the board of adjustment, the possible grounds for an appeal and the board's authority in the matter, whether the fee must be paid prior to resolution of the appeal, and other procedural or substantive matters related to appeals. Any decision by the board of adjustment shall be subject to review by the superior court by proceedings in the nature of *certiorari* in the same manner as is provided in G.S. 160A-388(e).

"Sec. 5.6. *Payment of Impact Fees.* An ordinance adopted under this Article shall spell out when fees shall be paid and by whom. By way of illustration without limitation, the ordinance may provide that an applicant for a building permit shall submit the impact fee along with the permit application and that building permits shall not be issued until the impact fee has been paid.

"Sec. 5.7. *Refunds.* If this Article or any ordinance adopted thereunder is declared to be unconstitutional or otherwise invalid, then any impact fees collected shall be refunded thereunder to the person paying them together with interest at the same rate paid by the Secretary of Revenue on refunds for tax overpayments.

"Sec. 5.8. *Limitations on Actions.*

(a) Any action contesting the validity of an ordinance adopted under this Article must be commenced not later than nine months after the effective date of such ordinance.

(b) Any action seeking to recover an impact fee must be commenced not later than nine months after the impact fee is paid.

"Sec. 5.9. *Recreation Fees in Lieu of Facilities.* The Board of Commissioners may establish a fund into which payments from developers or property owners may be deposited for the purpose of providing open space areas or recreational facilities and from which appropriations shall be made exclusively for the purpose of acquiring or improving open space areas or recreational facilities that are reasonably expected to benefit or serve the residents of the development generating such funds. The Board of Commissioners may provide in its zoning and subdivision ordinances that all developers or developers of certain types of projects shall either provide open space and recreational facilities according to standards set forth in the ordinances or pay a fee in accordance with a Town-established schedule to the Town's open space and recreational facilities fund. The Town may also provide in the zoning and subdivision ordinances that under specified circumstances such fee shall be required in lieu of the reservation or dedication of open space or recreational facilities."

Sec. 6. G.S. 44-51.8 is amended by inserting the word and punctuation "Chatham," immediately preceding the word "Catawba" in the third line of said section. All laws and clauses of laws in conflict with this section are hereby repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1580

CHAPTER 937

AN ACT MAKING CLARIFYING AMENDMENTS TO THE GASOLINE, SPECIAL FUEL, AND HIGHWAY USE TAX STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-431 is amended by deleting the phrase "; double taxation not intended" from the catch line to that section and by changing the semicolon following the word "State" to a period and deleting the remainder of that section.

Sec. 2. G.S. 105-434(a) is amended by changing the colon following the word “require” in the fourth sentence of that subsection to a period and rewriting the remainder of that subsection to read:

“A distributor may elect to calculate the tax on adjusted monthly receipts less a tare of two percent (2%) on the first 150,000 gallons, one and one-half percent (1 ½ %) on the next 100,000 gallons, and one percent (1%) on the excess over 250,000 gallons. ‘Adjusted monthly receipts’ means the quantity of motor fuel purchased, produced, refined, or compounded during the month plus the quantity of untaxed motor fuel on hand at the beginning of the month and less the quantity of motor fuel transported out-of-state during the month or lost during the month due to damage to a conveyance transporting the motor fuel, fire, a natural disaster, an act of war, or an accident. The Secretary of Revenue may, in accordance with rules adopted by him, refund to a nonlicensed distributor the tax on motor fuel that is purchased and delivered to him taxpaid and that is lost due to fire, a natural disaster, an act of war, or an accident after it is delivered to him and before it is sold.”

Sec. 3. G.S. 105-446.6 is amended by inserting a new sentence between the first and second sentences of that section to read:

“The refund application shall require the claimant to furnish evidence satisfactory to the Secretary that the motor fuel for which the refund is claimed has been reported for taxation in the state to which it was transported.”

Sec. 4. G.S. 105-432 is rewritten to read:

“§ 105-432. *Sales from pipeline or seaport terminals not first sales.*—The sale, consummated by delivery to a licensed distributor in this State, of motor fuel from a pipeline or seaport terminal in transport truck or railroad tank car shipments is not considered the first sale of the motor fuel.”

Sec. 5. G.S. 105-433 is amended by inserting two new sentences between the fourth and fifth sentences of that section to read:

“A distributor required to file a bond under this section shall, within 30 days after receiving a notice from the Secretary of Revenue, file an additional bond in the amount requested by the Secretary. The amount of the initial bond and any additional bonds filed by the distributor, however, may not exceed the limits set in this section.”

Sec. 6. G.S. 105-441 is amended by inserting between the words “State” and “shall” in the first sentence of that section the phrase “, or who fails to file an additional bond required under G.S. 105-433”.

Sec. 7. G.S. 105-449.5 is amended by adding the following sentences at the end of that section to read:

“A supplier required to file a bond under this section shall, within 30 days after receiving a notice from the Secretary, file an additional bond in the amount requested by the Secretary. The amount of the initial bond and any additional bonds filed by the supplier, however, may not exceed the limits set in this section.”

Sec. 8. G.S. 105-449.14 is amended by inserting between the words “supplier” and “fails” in the first sentence of that section the phrase “fails to file an additional bond required under G.S. 105-449.5 or”.

Sec. 9. G.S. 105-449 is amended as follows:

(1) by rewriting subsections (a) and (b) of that section to read:

“(a) Motor fuel purchased by a local board of education and used in public school transportation in this State is exempt from the per gallon tax levied by this Article provided an invoice for the fuel stating the board of education to whom the fuel was delivered, the price per gallon of the fuel excluding the per gallon tax, and the kind and quantity of fuel sold is furnished to the Secretary of Revenue. To implement this exemption, a person who holds a State contract for the sale of motor fuel to be used in public school transportation shall invoice motor fuel sold to a local board of education for this purpose at the prevailing contract price, excluding the per gallon tax, and a person who does not hold a State contract for the sale of motor fuel to be used in public school transportation but who sells motor fuel for this purpose in quantities not sufficient to require a State contract shall invoice motor fuel sold to a local board of education at the lowest informal bid price, excluding the per gallon tax.

(b) A person authorized to sell motor fuel to a local board of education who paid the per gallon tax levied by this Article on fuel sold to the local board for public school transportation may obtain a refund of the tax paid on the fuel upon filing an application for refund with the Secretary of Revenue and attaching an invoice, containing the information required in subsection (a), to the refund application. Upon receipt of a proper application and invoice, the Secretary shall issue a warrant upon the State Treasurer for the amount of the per gallon tax paid.”; and

(2) by deleting the word “gasoline” each time it appears in subsections (c) and (d) of that section and substituting the words “motor fuel”.

Sec. 10. G.S. 105-449.2(7) is rewritten to read:

“(7) ‘User’ means a person who owns or operates a fuel-propelled motor vehicle licensed under Chapter 20 and who does not maintain storage facilities for fueling the vehicle.”

Sec. 11. G.S. 105-449.9 is rewritten to read:

“§ 105-449.9. *License required of user and user-seller.*—Every user, except a user whose use of fuel is limited to private passenger motor vehicles and other motor vehicles licensed under Chapter 20 at 6,000 pounds or less, and every user-seller shall obtain a license from the Secretary. When issued, a user’s or a user-seller’s license is effective until it is cancelled.”

Sec. 12. G.S. 105-449.10(b) is rewritten to read:

“(b) A user shall pay the tax levied by this Article on any nontaxpaid fuel acquired by him. A licensed user shall pay the tax due on nontaxpaid fuel acquired during a reporting period when filing a report for that period. An unlicensed user who acquires nontaxpaid fuel shall report the fuel and pay the tax due on the fuel in the same manner as a licensed user.”

Sec. 13. G.S. 105-449.2(9) is rewritten to read:

“(9) ‘Supplier’ means a person who:

a. Sells or delivers fuel to a user-seller; or

- b. Maintains an inventory of fuel, part or all of which he uses or sells for use in a motor vehicle, and is not required to be licensed as a user-seller; or
- c. Imports fuel, other than in the usual tank or receptacle connected with the engine of a motor vehicle, into the State for his own use."

Sec. 14. G.S. 105-449.2(10) is deleted.

Sec. 15. G.S. 105-449.3 is rewritten to read:

"§ 105-449.3. *License required of supplier.*—Every supplier shall obtain a license from the Secretary."

Sec. 16. G.S. 105-449.2(3) is rewritten to read:

"(3) 'Fuel' means combustible gases and liquids, other than those subject to tax under Article 36, that are or can be used to generate power to propel a motor vehicle."

Sec. 17. G.S. 105-449.19 is amended as follows:

(1) by inserting between the word "user-sellers" and the semicolon following that word the phrase "or delivered into motor vehicles"; and

(2) by deleting the phrase "or sold to user-sellers" and substituting the phrase "sold to user-sellers, or delivered into motor vehicles owned by others".

Sec. 18. G.S. 105-449.24 is rewritten to read:

"§ 105-449.24. *Exemptions, rebates, and refunds.*—The exemptions from and the rebates and refunds of the tax levied by Article 36 on motor fuel apply to the tax levied by this Article on fuel, except the exemption and refund for losses in G.S. 105-434(a)."

Sec. 19. G.S. 105-449.30 and G.S. 105-449.31 are repealed

Sec. 20. G.S. 105-449.47 is amended by adding a new sentence at the end of the second paragraph of that section to read: "The Secretary may withhold or revoke a registration card and identification marker when a motor carrier fails to comply with this Article or Article 36A of this Subchapter."

Sec. 21. G.S. 105-449.11 is amended by deleting the second sentence of that section.

Sec. 22. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1634

CHAPTER 938

AN ACT TO REMOVE CERTAIN DESCRIBED TERRITORY FROM THE CORPORATE LIMITS OF THE TOWN OF SPRUCE PINE.

The General Assembly of North Carolina enacts:

Section 1. All of the following described territory in Grassy Creek Township of Mitchell County which is in the corporate limits of the Town of Spruce Pine is removed from the corporate limits of the Town of Spruce Pine:

TRACT I

BEGINNING on an iron pin in the mine hole on Tempie Mountain and runs N33°0'30" East 157.78 feet to an iron pin, thence from the iron

pin N 33°4'30" East 426.73 feet to an iron pin, thence from the iron pin S 76°46'42" East 97.23 feet to an iron pin, thence from the iron pin S 11°22'18" East 317.26 feet to an iron pin; thence from the iron pin S 44°37'12" East 219.55 feet to an iron pin, thence from the iron pin S89°58'06" West 630.25 feet to the BEGINNING, containing 3.56 acres, more or less.

TRACT II

BEGINNING on an iron pin in the mine hole on Tempie Mountain and runs S 81°9'24" E 258.53 feet to an iron pin, thence from the iron pin N 74°49'48" East 353.74 feet to an iron pin, thence from the iron pin N 33°0'33" East 157.78 feet to the BEGINNING, containing 0.43 acres, more or less.

TRACT III

BEGINNING on an iron stake a common corner of Dr. Dean Peake and the Thies Heirs and running thence with the old line north 55 deg. 40 min. 42 sec. East 345.20 feet to an iron stake; thence North 89 deg. 58 min. 06 sec. East 200.00 feet to an iron stake; thence south 60 deg. 41 min. 45 sec. west 485.85 feet to an iron stake in the old line; thence running with the oldline North 54 deg.58 min. 18 sec. West 75.0 feet to the beginning, containing 0.82 acres.

TRACT IV

BEGINNING on an iron pin in the mine hole on Tempie Mountain and runs S 55°40'42" West 345.20 feet to an iron pin, thence from the iron pin N 7°12'54" East 236.43 feet to an iron pin, thence from the iron pin S 81°9'24" East 258.53 feet to the BEGINNING, containing 0.70 acres, more or less.

Sec. 2. This act shall become effective July 30, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1594

CHAPTER 939

AN ACT TO ANNEX CERTAIN LANDS OWNED BY THE CITY OF ROCKINGHAM TO THAT CITY.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the City of Rockingham are extended to include the following described tract: BEGINNING at a concrete monument lying in the Northwest margin of the Midway Road ramp leading from Midway Road to U. S. Highway No. 220, being the Northeast corner of the Pee Dee Electric Membership Corp. tract as described in Book 584, Page 28 of the Richmond County Registry, and runs thence with the Northern line of said Pee Dee Electric property South 78-28 West 878.04 feet to an iron stake; thence continuing with the Northern line of said Pee Dee Electric property South 85-03 West 610.78

feet to an iron stake in the center line of a 60-foot private road easement; thence with the center line of said road easement South 09-46 East 205.34 feet to a corner; thence with the Northern line of the Sweet Haven Church tract South 82-47 West 405 feet to an iron stake; thence with the Western line of said church tract South 09-46 East 465.10 feet to an iron stake in the Northern margin of Midway Road; thence with the Northern margin of Midway Road the following courses and distances: South 82-47 West 22.11 feet; South 83-55 West 157.81 feet; North 89-10 West 134.91 feet; North 81-25 West 124.60 feet, and North 74-21 West 256.18 feet to an iron stake at the Eastern margin of a road leading by the William H. Strickland property; thence North 3-41 East 139.6 feet to an iron stake; thence North 9-19 East 81.7 feet to an iron stake; thence crossing said road North 4-32 West 340.38 feet to an iron stake, a corner of William H. Strickland lot (See Deed Book 662, Page 65); thence with the Southwest line of the said Strickland lot South 30-19 East 131.8 feet to an iron stake in the Eastern margin of said road; thence with the Southern line of the Strickland lot South 79-38 East 286.2 feet to an iron stake; thence with the Eastern margin of the Strickland lot North 13-36 West 301.0 feet to an iron stake; thence with the Northern margin of the Strickland lot North 79-32 West 296.58 feet to an iron stake in the Eastern margin of the Shaw Hill Subdivision (See Plat Book 5, Page 88); thence with a line of said subdivision North 4-32 West 219.58 feet to an iron stake; thence with another line of said subdivision North 33-20 West 406.33 feet to an iron stake in the Southeast margin of the S.A.L. Railroad property; thence with the Southern margin of said railroad the following courses and distances: North 62-55 East 244.04 feet; North 67-29 East 347.06 feet; North 71-24 East 584.51 feet; North 72-07 East 651.26 feet and North 74-20 East 140.53 feet to an iron stake, the Northwest corner of the Gore property; thence with the Western line of the Gore property South 1-54 West 119.49 feet to a corner; thence with the Southern line of said Gore tract North 80-00 East 719.36 feet; North 82-51 East 190.0 feet to an iron stake, said iron stake lying in the Southwest margin of the city limits of the City of Rockingham; thence continuing with said city limits South 35-29 East 65.19 feet and South 86-31 East 251.37 feet to a concrete monument lying in the Northwest margin of the said Midway Road ramp; thence with the Western margin of said road ramp the following courses and distances: South 16-18 West 679.79 feet; South 22-11 West 219.15 feet and South 14-32 West 204.04 feet to the beginning concrete monument lying in the Northwest margin of the Midway Road ramp leading from Midway to U. S. Highway No. 220, the beginning corner.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1617

CHAPTER 940

AN ACT AUTHORIZING WAYNE COUNTY TO EXTEND THE BOUNDARIES OF A RURAL FIRE PROTECTION DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 502 of the 1985 Session Laws is rewritten to read:

“Sec. 3. Section 1 of this act applies only to Lee County. Section 2 of this act applies only to Lee and Wayne Counties. In applying Section 2 to Wayne County, however, G.S. 69-25.11 A(a)(3) is amended by deleting the last two sentences of that subdivision.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1645

CHAPTER 941

AN ACT TO PERMIT THE TOWN OF HOLLY SPRINGS TO ACQUIRE PROPERTY BY THE MODIFIED QUICK-TAKE PROCEDURE OF CHAPTER 40A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-42(a) is amended by deleting “(6), or (7)”, and substituting “(6), (7), or (9)”.

Sec. 2. This act shall only apply to the Town of Holly Springs.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1653

CHAPTER 942

AN ACT AUTHORIZING BUNCOMBE AND HAYWOOD COUNTIES TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Part VI of Chapter 908 of the 1983 Session Laws is amended by adding a new section to read:

“Sec. 23.1. Additional Tax. In addition to the tax authorized by Sections 17 and 18 of this Part, the Buncombe County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under those sections. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with Sections 17 through 23 of this Part. Buncombe County may not levy a tax under this section unless it also levies a tax under Sections 17 and 18 of this Part.”

Sec. 2. Part V of Chapter 908 of the 1983 Session Laws is amended by adding a new section to read:

"Sec. 16.1. Additional Tax. In addition to the tax authorized by Sections 10 and 11 of this Part, the Haywood County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under those sections. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with Sections 10 through 16 of this Part. Haywood County may not levy a tax under this section unless it also levies a tax under Sections 10 and 11 of this Part."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1677

CHAPTER 943

AN ACT TO REVISE THE CHARTER OF THE CITY OF CLINTON AND ESTABLISH THE CLINTON-SAMPSON AGRI-CIVIC CENTER COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Clinton is rewritten to read:

"CHAPTER I.**"INCORPORATION AND CORPORATE POWERS.**

"Sec. 1-1. INCORPORATION AND CORPORATE POWERS. The inhabitants of the City of Clinton are a body corporate and politic under the name of the "City of Clinton". Under that name they have all the powers, duties, rights, privileges and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.**"CORPORATE BOUNDARIES.**

"Sec. 2-1. CITY BOUNDARIES. The boundaries of the City of Clinton are set out on a map entitled 'Boundary Map of the City of Clinton, North Carolina.' The map is maintained in the office of the City Clerk, as required by G.S. 160A-22.

"CHAPTER III.**"GOVERNING BODY.**

"Sec. 3-1. STRUCTURE OF GOVERNING BODY; NUMBER OF MEMBERS. The governing body of the City of Clinton is the City Council, which has four members, and the Mayor.

"Sec. 3-2. MANNER OF ELECTION OF COUNCIL. The qualified voters of the entire City elect the members of the City Council.

"Sec. 3-3. TERM OF OFFICE OF MEMBERS OF THE CITY COUNCIL. Members of the City Council are elected to four year terms. Any present members of the City Council serving under the Charter of the City of Clinton which has been superceded by this Charter shall continue to serve

until the expiration of their present terms. Two members of the City Council shall be elected in 1987 for the two seats on the City Council the terms of which expire in 1987, and two members of the City Council shall be elected in 1989 for the two seats on the City Council the terms of which expire in 1989.

"Sec. 3-4. ELECTION OF MAYOR; TERM OF OFFICE. The qualified voters of the entire city shall elect the Mayor. He is elected to a two-year term of office.

"CHAPTER IV.
"ELECTIONS.

"Sec. 4-1. CONDUCT OF CITY ELECTIONS. City Officers shall be elected on a non-partisan basis, and the results determined by plurality as provided by G.S. 163-294.

"CHAPTER V.
"ADMINISTRATION.

"Sec. 5-1. CITY TO OPERATE UNDER COUNCIL-MANAGER PLAN. The City of Clinton shall operate under the Council-Manager Plan as provided in G.S. 160A, Article 7, Part 2."

Sec. 2. (a) There is hereby created a commission to be known as the Clinton-Sampson Agri-Civic Center Commission, which shall consist of seven members, two appointed by the Board of Commissioners of Sampson County, two appointed by the City Council of the City of Clinton, and three appointed by the board of directors of Clinton Chamber of Commerce and Merchants Bureau, Inc. One of the members appointed by each of the governing bodies and one appointed by the Clinton Chamber of Commerce and Merchants Bureau, Inc., initially shall serve a term of two years, and the other appointees shall serve a term of four years, and thereafter the members upon their appointments or reappointments shall each serve a term of four years. Initial terms of office shall begin August 1, 1986.

(b) The sole function and purpose of the commission and its power shall be to maintain and operate the facility composed of the real estate and improvements thereon located between Warsaw Road and Railroad Street in the City of Clinton, which real estate is more particularly described in the Option on Real Estate to the City of Clinton and Sampson County recorded, respectively, in Book 1027 at Page 601, of the Sampson County Registry. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the commission may allow Clinton Chamber of Commerce and Merchants Bureau, Inc., to occupy offices in said facilities with or without monetary consideration as the commission shall from time to time determine, but the right to the use and occupancy of part of the premises by Clinton Chamber of Commerce and Merchants Bureau, Inc., may be restricted or terminated as said commission shall see fit, whether now or in the future.

(c) Notwithstanding G.S. 160A-272, by private lease, the City of Clinton and Sampson County may lease the real estate and improvements thereon to the commission for a term not exceeding twenty years without regard to whether said property be deemed "surplus property" and for

such consideration as the said city and county shall deem appropriate, including no consideration, upon such terms and conditions as the city and county shall deem appropriate. The commission's power, authority and duties shall consist of maintaining and operating said real estate and improvements as a center for agricultural, business, cultural, community and other kinds of expositions and meetings of individuals, groups or organizations, and said commission shall from time to time establish policies for the use of said facilities, the rentals to be paid for the use of them and all other matters incident to the use of said facilities by individuals, groups or organizations, and to pay from the revenues realized from the rental of the facility to various groups and organizations the costs of preservation, improvement, administration, including employee compensation, of the premises and all other costs incident to the preservation and use of the facility including, but not limited to the cost of insurance premiums, ordinary maintenance and capital improvements, subject to the limitations, if any, imposed upon the commission by the lease from said city and county.

(d) No profits realized by the commission from the operation of said facility shall be used for any purpose other than maintenance, improvement and operation of the facility.

(e) The city and the county may distribute funds to the commission for the further improvement or the maintenance of the facility although neither shall be required to do so.

(f) The commission is not a public authority under Chapter 159 of the General Statutes.

(g) The commission is a governmental unit for the purpose of G.S. 160A-274.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1691

CHAPTER 944**AN ACT TO AMEND ARTICLE 1 OF CHAPTER 118 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE FIREMEN'S RELIEF FUND OF THE CITY OF KINSTON.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 118-7 is hereby amended by adding at the end of said section a proviso which shall read as follows:

"Provided, that the Board of Trustees duly appointed under G.S. 118-4, shall be required to pay over to the Board of Trustees of the Kinston Firemen's Supplemental Retirement System on July 1st of each year all sums entrusted to said trustees to which the Kinston Firemen would be entitled under said Chapter."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 1697

CHAPTER 945

AN ACT TO CREATE AND ESTABLISH THE KINSTON FIREMEN'S SUPPLEMENTAL RETIREMENT SYSTEM FOR THE CLASSIFIED FIREMEN EMPLOYEES OF THE FIRE DEPARTMENT OF CITY OF KINSTON.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created and established a supplemental retirement system for the members of the Fire Department of the City of Kinston to be known as the "Kinston Firemen's Supplemental Retirement System," hereinafter referred to in this act as "supplemental retirement system." The purpose of the creation and establishment of the supplemental retirement system, as provided for in this act, shall be to increase, augment and add to the benefits received by the firemen of the City of Kinston who have already retired and who may hereafter retire and become eligible for benefits under the provisions of the North Carolina Local Government Employees' Retirement System in the sums and amounts hereafter provided under this act.

Sec. 2. The general administration and responsibility for the proper operation of the supplemental retirement system herein created and established and for the carrying out and making effective the provisions of this act are hereby vested in a Board of Trustees who shall be chosen and selected as follows:

(a) Two members of said Board of Trustees shall be chosen from the membership of the Kinston Fire Department and shall be elected by a majority vote of the uniformed members of the Fire Department of the City of Kinston; one of said members shall hold office for a period of one year, and the other member so appointed shall hold office for a period of two years; thereafter, each of said two members chosen from the Kinston Fire Department shall be appointed for a term of office consisting of a period of two years each.

(b) One member shall be appointed by the Commissioner of Insurance and for a term consisting of two years.

(c) Two members of said Board of Trustees shall be appointed by the Kinston City Council by a majority vote of the members thereof; one of said members shall hold office for a period of one year and the other member so appointed shall hold office for a period of two years; thereafter each of said two members appointed by the Kinston City Council shall be appointed for a term of office consisting of a period of two years each.

All members of the Board of Trustees shall be elected or appointed as specified in subsections 2(a), (b) and (c) prior to the fourth Monday in May. They shall take office on the first Monday in June. Any member of said Board of Trustees shall be eligible to succeed himself or herself, and all vacancies occurring in the membership of the Board of Trustees by death, resignation, disqualification or otherwise shall be filled by a special election of the members elected in subsections 2(a) and (c), to fill the unexpired term, and likewise by special appointment under subsection 2(b).

(d) The Board of Trustees shall be organized immediately after the trustees provided for in this section shall have qualified and taken the

oath of office. The Board of Trustees shall be a body politic and corporate under the name of the Board of Trustees of Kinston Firemen's Supplemental Retirement System, and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, receive and demand and possess all kinds of property hereinafter specified, and to bargain, sell, grant, convey or dispose of all such property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof and shall not be subject to income taxes.

(e) The Board of Trustees may purchase with funds received under and by virtue of their office any bond, certificate or other evidence of debt or ownership in which the City of Kinston is legally entitled to invest as now or hereafter provided by the General Statutes of North Carolina, not exceeding the amount guaranteed or insured by the United States Government or any agency thereof.

(f) The members of the Board of Trustees of the Kinston Firemen's Supplemental Retirement System shall serve without compensation, but they shall be reimbursed from the fund for all necessary expenses incurred through service upon said board.

(g) Each trustee shall, within 10 days after his appointment, take an oath of office before the mayor that, so far as it devolves upon him, he will diligently and honestly administer the affairs of said board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, and certified by the officer by whom it is taken, and immediately filed in the office of the city clerk.

(h) The Board of Trustees shall hold meetings at least semi-annually at such time and place as the board may determine. In addition thereto, the chairman or vice-chairman of the Board of Trustees may call special meetings and upon request of two members of the Board of Trustees in writing, shall call a special meeting of the Board of Trustees. When so called, the secretary shall give notice in person or by special delivery mail to all members of the board at least 24 hours prior to such meeting, specifying the purpose of such meeting and time and place. The business of the special meeting shall be limited to the purpose as set forth in the notice.

(i) Each trustee shall be entitled to one vote. Three affirmative votes shall be necessary for a decision by the trustees at any meeting of said board and the chairman shall only vote in case of a tie.

(j) The chairman shall preside at all meetings and in his absence the vice-chairman shall preside.

(k) The chairman, vice-chairman and secretary-treasurer of the Kinston Firemen's Supplemental Retirement System shall be elected by the Board of Trustees from the membership of the board at the first organizational meeting and thereafter at the first regular meeting in each year.

(l) Subject to the limitations of this act, the Board of Trustees shall, from time to time, establish rules and regulations for the administration

of and eligibility for employee benefit payments from the funds created by this act and for the transaction of its business. The Board of Trustees shall also, from time to time, in its discretion, adopt rules and regulations to prevent injustices and inequalities which might arise in the administration of this act.

(m) The secretary-treasurer shall keep in convenient form, at a place designated by the trustees, such financial, administrative and other data as shall be necessary for evaluating the system, its financial condition, its actuarial soundness and for checking the expenses of the system.

(n) The Board of Trustees shall keep a written record of all of its proceedings which shall be open to public inspection. It shall publish at the end of each fiscal year a report showing the fiscal transactions of the system for the preceding year investments, the amount of the accumulated cash of the system, and the last balance sheet showing the financial condition of the system, including the valuation of the assets and liabilities of the retirement system. A copy of such annual report shall be provided to each of the fire stations of the City of Kinston and the city manager of the City of Kinston. The term "fiscal year," as used in this act, shall be defined to mean the period from July 1st to June 30th, inclusive.

(o) The attorney or attorneys for the City of Kinston shall be the legal adviser or advisers to the Board of Trustees unless the trustees vote otherwise. Any attorney employed by the trustees shall be paid from funds of the system.

(p) The secretary-treasurer shall handle and be responsible for all funds and shall furnish a bond in an amount determined by the Board of Trustees. The bond shall be paid from funds of the system. He shall be custodian of all funds paid into the Kinston Firemen's Supplemental Retirement System and shall deposit said funds in a bank or banks and other financial institutions approved and designated by the Board of Trustees and permitted by the General Statutes of North Carolina. All payments from such funds shall be made by him only upon voucher signed by two persons designated by the Board of Trustees. The books of the system shall be audited every two years and when a new treasurer is elected, by a certified public accountant. The audit report shall be presented at the first regular meeting following election of a new treasurer or the first regular board meeting in a fiscal year.

(q) No member of the Board of Trustees shall be personally liable by reason of his service as a trustee for any acts performed by him as a trustee, except for malfeasance in office.

(r) **Trustee Member Disqualified.** In the event any uniformed member shall make application for benefits under this act, and shall at such time be serving as a member of the Board of Trustees, he shall first disqualify himself and his vacancy shall be filled before the Board of Trustees receives such application.

Sec. 3. There is hereby created and established in the Kinston Firemen's Supplemental Retirement System a fund to be known as the "supplemental retirement fund" and hereinafter referred to as the "fund". The fund shall consist of all moneys in the Firemen's Relief Fund as of the effective date of this act and funds paid into the system from the Firemen's Relief Fund of the City of Kinston from time to time and as

provided by law; all gifts of money, property of all kinds and description, proceeds from the sale of property of all kinds and description, all moneys, funds or property transferred to the fund by will, devise, bequest or by other means provided by law for the transfer or devolution of property; donations and gifts made by the firemen of the City of Kinston, investments, earnings on investments, interest, dividends and any other funds or property that may accrue to the fund. The Board of Trustees is authorized to accept gifts, devises and bequests, and any property or funds that may in anywise be transferred by operation of law. The moneys and property of the fund may be invested by the Board of Trustees as heretofore provided in this act. Refunds may be made from the fund to anyone entitled thereby by reason of clerical mistake or any clerical error or inadvertence. The fund shall be liable for the payment of eligible supplemental benefits hereinafter referred to and defined. Any donations made to the Kinston City Fire Department in excess of the amount of one hundred dollars (\$100.00) may be given and transferred to the fund by a majority vote of the members of the Kinston City Fire Department. The fund shall be liable for all reasonable and necessary expenses of administration as shall be determined by the Board of Trustees.

Sec. 4. For the purpose of this section "supplemental benefit" as used in this section shall be defined to mean any sum of money payable by the fund to a fireman of the Kinston City Fire Department who retires from the Local Governmental Employees' Retirement System, as established by Article 3 of Chapter 128 of the General Statutes of North Carolina, including disability retirement, as provided in said system. All firemen of the Kinston City Fire Department, who retire from the Local Governmental Employees' Retirement System, including disability retirement, as provided in said system, and who satisfy all other rules and regulations determining eligibility promulgated by the trustees, shall receive a minimum supplemental benefit of fifty dollars (\$50.00) per month, except that the total amount paid all retired members of the Kinston City Fire Department shall not exceed eighty percent (80%) of the income received by the fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources. In the event that eighty percent (80%) of the income above mentioned is insufficient to pay such minimum of fifty dollars (\$50.00) per month to each person receiving supplemental benefit, the amount shall be equally prorated among the retired members of the Kinston City Fire Department. Each retired fireman receiving supplemental benefit in accordance with this act shall receive the same amount of supplemental benefit per month; provided, that the maximum payment to any retired member of the Kinston City Fire Department from said fund shall be one hundred dollars (\$100.00) per month. All amounts received for the fund, except eighty percent (80%) of the interest and funds received from other sources, which is to be used for the payment of supplemental benefits to retired members of the Kinston City Fire Department, as herein provided, together with any part of said eighty percent (80%) which is not paid out during the next fiscal year, shall become a part of said fund and may be invested as provided in this act. Should any fireman die, subsequent to the payment of a supplemental benefit for any preceding month and prior

to the payment of any supplemental benefit in the month in which such fireman dies, then such supplemental benefit for that month shall be paid to the deceased fireman's personal representative. The Board of Trustees shall have the authority and power to promulgate rules and regulations governing amounts of benefit payments and eligibility therefor, not inconsistent with the General Statutes governing same, to the end that the supplemental benefits herein provided may be properly administered and carried out and for the purpose of achieving the objectives herein sought.

Sec. 5. The provisions of Section 4 of this act shall not become effective as to the payment of any supplemental benefits thereunder until on and after October 1, 1986.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. None of the provisions of this act shall create an additional liability for the Kinston Firemen's Supplemental Retirement System unless sufficient current assets are available in the fund to pay fully for the additional liability.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 2092

CHAPTER 946

AN ACT TO AUTHORIZE A BOND ISSUE TO CONSTRUCT A PARKING DECK BEHIND THE ALBEMARLE BUILDING.

The General Assembly of North Carolina enacts:

Section 1. The Council of State may adopt a bond order providing for the issuance, pursuant to the North Carolina Parking Facilities and Project Revenue Bond Act, Chapter 858, 1975 Session Laws as amended, of not more than ten million dollars (\$10,000,000) aggregate principal amount of revenue bonds of the State for the purpose of constructing a parking deck behind the Albemarle Building. The bonds shall be sold in accordance with the Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes. The Capital Building Authority is authorized to award the design and construction contract for such facility on a design/build basis, notwithstanding Article 8 of Chapter 143 of the General Statutes and Section 12 of Chapter 858, 1975 Session Laws.

Sec. 2. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 2114

CHAPTER 947

AN ACT CLARIFYING THE INVENTORY TAX CREDITS AND REDUCTIONS ENACTED BY THE TAX REDUCTION ACT OF 1985.

*The General Assembly of North Carolina enacts:***Section 1.** G.S. 105-163.06(a) is rewritten to read:

“(a) Credit. Every manufacturer in this State is allowed a credit against the tax imposed by this Article equal to twenty percent (20%) of the amount of property taxes paid by the manufacturer during the taxable year upon the portion of its inventories that consists of raw materials, goods in process, and finished goods that are manufactured by it and are located either at an establishment of the manufacturer or at a retail outlet of the manufacturer on the premises of its manufacturing plant. A manufacturer who claims a tax credit under this subsection may not claim a credit under G.S. 105-163.03 or receive a reduction in the property tax rate under G.S. 105-277(i) for the inventory for which a credit is claimed under this subsection.”

Sec. 2. G.S. 105-163.02(7) is rewritten to read:

“(7) ‘Manufacturer’ means a taxpayer who is regularly engaged, at a manufacturing or processing plant, mill, or factory in this State, in the mechanical or chemical conversion or transformation of materials or substances into new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.”

Sec. 3. G.S. 105-273 is amended by inserting the following definitions in the appropriate alphabetical order to read:

“(10a) ‘Manufacturer’ means a taxpayer who is regularly engaged, at a manufacturing or processing plant, mill, or factory in this State, in the mechanical or chemical conversion or transformation of materials or substances into new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

“(13a) ‘Retail Merchant’ means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to users or consumers. For the purpose of the classification in G.S. 105-277(i), the term includes a manufacturer who holds property for sale that it did not manufacture or who holds finished goods for sale at a location other than its establishment.

“(19) ‘Wholesale Merchant’ means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to other retail or wholesale merchants for resale or to manufacturers for use as ingredient or component parts of articles being manufactured for sale. For the purpose of the classification in G.S. 105-277(i), the term includes a manufacturer who holds property for sale that it did not manufacture or

who holds finished goods for sale at a location other than its establishment.”

Sec. 4. G.S. 105-273 is amended by rewriting subdivision (8a) to read:

“(8a) ‘Inventories’ means goods held for sale in the regular course of business by manufacturers and retail and wholesale merchants. As to manufacturers, the term includes raw materials, goods in process, and finished goods, as well as other materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.”

Sec. 5. G.S. 105-277(i) is rewritten to read:

“(i) Inventories of Retail and Wholesale Merchants. Inventories owned by retail and wholesale merchants are designated a special class of property pursuant to Article V, Sec. 2(2) of the North Carolina Constitution and are taxable at ninety percent (90%) of the rate levied on other tangible personal property by the taxing unit in which the property is situated.”

Sec. 6. G.S. 105-320 is amended as follows:

(1) by rewriting subdivisions 14 and 15 of subsection (a) to read as follows and by adding a new subdivision to subsection (a) to read as follows:

“(14) The total assessed value of the inventory of a manufacturer subject to the income tax credit in G.S. 105-163.06 and the amount of ad valorem taxes due by the manufacturer on its inventory subject to that credit.

(15) The total assessed value of livestock and poultry of a producer subject to the income tax credit in G.S. 105-163.05 and the amount of ad valorem taxes due by the producer on its livestock and poultry subject to that credit.

(16) The total assessed value of farm machinery, attachments, and repair parts of individual owners and Subchapter ‘S’ corporations engaged in farming subject to the income tax credit in G.S. 105-163.07 and the amount of ad valorem taxes due by an individual farmer or a Subchapter ‘S’ corporation engaged in farming on farm machinery, attachments, and repair parts subject to that credit.”; and

(2) by redesignating subsection (b) as subsection (c) and inserting a new subsection (b) to read:

“(b) Instead of being shown on the tax receipt, the information required in subdivisions (14), (15), and (16) of subsection (a) may be shown on a separate sheet furnished to the affected taxpayers.”

Sec. 7. G.S. 105-277A(a) is amended by adding a new sentence at the end of that subsection to read:

“As used in this subsection, the term ‘taxing unit’ means a unit that levied a property tax for the fiscal year beginning July 1 of the year preceding the date a distribution is made under this section.”

Sec. 8. G.S. 105-277A(b) is rewritten to read:

“(b) A city or county that receives funds under this section and that collects taxes for another taxing unit shall distribute part of the taxes received by it to the taxing unit for which it collects tax. The distribution shall be made on the basis of the proportionate amount of ad valorem taxes levied, for the most recent fiscal year beginning July 1, by the city or county and by all the taxing units for which the city or county collects tax. This distribution shall be made as soon as practicable after a city or county receives funds from the State under this section.”

Sec. 9. G.S. 105-309(d) is amended by adding a new sentence before subdivision (1) of that subsection to read:

“Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under Division IV of Article 4 of this Chapter.”

Sec. 10. This act is effective for taxable years beginning on or after January 1, 1986.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

H.B. 2133

CHAPTER 948

AN ACT TO AMEND CHAPTERS 53 and 54B OF THE GENERAL STATUTES TO PROVIDE FOR SUPERVISORY ACQUISITION OF A SAVINGS AND LOAN ASSOCIATION BY A COMMERCIAL BANK CHARTERED PURSUANT TO THE PROVISIONS HEREOF.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 53 of the General Statutes is amended by adding a new Section 53-17.1 to read:

“§ 53-17.1. *Supervisory acquisition of State association.*—(a) A commercial bank may be chartered under the supervisory provisions provided in this section and may enter into and consummate the purchase and assumption transaction contemplated by subdivision (1) of this subsection if:

- (1) the commercial bank proposes to purchase all or substantially all of the book assets and to assume all or substantially all of the book liabilities of an eligible State association; and
- (2) the Commissioner of Banks approves such chartering and such purchase and assumption pursuant to subsection (c) of this section.

(b) A State association, as defined in G.S. 54B-4, is an eligible State association if it is insured by a mutual deposit guaranty association, as defined in Article 12, Chapter 54B of the General Statutes, which will provide financial assistance for a transaction authorized by this section, and if the Administrator, as defined in G.S. 54B-4, has found, pursuant to G.S. 54B-44, that such State association is unable to operate in a safe and sound manner.

(c) The Commissioner of Banks shall approve the chartering of a commercial bank, and the purchase and retention by such commercial bank of all or substantially all of the book assets and the assumption by

such commercial bank of all or substantially all of the book liabilities, of an eligible State association, pursuant to this section if:

- (1) such commercial bank satisfies the requirements of G.S. 53-4; and
- (2) the chartering and such purchase and assumption will promote the public interest.

(d) Notwithstanding any regulatory or statutory requirement or provision to the contrary, chartering of a commercial bank, the acquisition by such bank of the assets and assumption of the liabilities of an eligible State association and actions taken by the Commissioner of Banks pursuant to this section, are not subject to any notice or public hearing requirements, nor to the provisions of Chapter 150B of the General Statutes or any other administrative procedure requirements under Chapter 53 or Chapter 54B of the General Statutes, or otherwise, other than as stated in this section.

(e) Notwithstanding any other provision of the General Statutes of this State, any bank holding company, as defined in G.S. 53-210(4), may acquire a commercial bank chartered pursuant to this section, and a bank holding company which has acquired, directly or indirectly, such a commercial bank may acquire a North Carolina bank or a North Carolina bank holding company, each as defined in G.S. 53-210, on the same terms and conditions, and subject to the same regulatory requirements, as a North Carolina bank or North Carolina bank holding company could acquire a North Carolina bank holding company or a North Carolina bank. A purpose of this section is to remove the limitation imposed by Section 3(d) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1842(d)) on bank holding company acquisitions only to the extent of the limited supervisory circumstances provided for herein.

(f) A bank holding company which acquires a commercial bank chartered pursuant to this section, and such commercial bank, shall be deemed to be a North Carolina bank holding company and a North Carolina bank, respectively, as defined in, and for all purposes of G.S. 53-210.

(g) Notwithstanding any regulatory or statutory requirement or provision to the contrary, a commercial bank chartered pursuant to this section shall, except as provided in this section, be a 'bank' for all purposes of Chapter 53 of the General Statutes.

(h) A commercial bank that is chartered pursuant to this section shall not receive any deposits, or conduct any other transactions with the public, until it has purchased the assets and assumed the liabilities of an eligible State association as contemplated by this section, and has received the certificate of authority provided for in G.S. 53-8.

(i) No commercial bank may be chartered under this section, and no purchase and assumption may be consummated in reliance upon the authority provided in this section, after September 30, 1986."

Sec. 2. G.S. 54B-44(a) is amended by deleting the last sentence thereof.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

S.B. 303

CHAPTER 949

AN ACT TO AMEND THE GENERAL STATUTES TO ESTABLISH PROCEDURES FOR WITHHOLDING FROM WAGES AND OTHER INCOME IN CHILD SUPPORT CASES AS REQUIRED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-129 is amended by adding the following new subdivisions at the end of the section to read:

“(6) ‘Disposable income’ means any form of periodic payment to an individual, regardless of sources, including but not limited to wages, salary, commission, self-employment income, bonus pay, severance pay, sick pay, incentive pay, vacation pay, compensation as an independent contractor, worker’s compensation, disability, annuity, survivor’s benefits, pension and retirement benefits, interest, dividends, rents, royalties, trust income and other similar payments, which remain after the deduction of amounts for federal, State, and local taxes, Social Security, and involuntary retirement contributions. However, Supplemental Security Income, Aid for Dependent Children, and other public assistance payments shall be excluded from disposable income. For employers, disposable income means ‘wage’ as it is defined by G.S. 95-25.2(16).

(7) ‘IV-D case’ means a case in which services have been applied for or are being provided by a child support enforcement agency established pursuant to Title IV-D of the Social Security Act as amended and this Article.

(8) ‘Non-IV-D case’ means any case, other than a IV-D case, in which child support is legally obligated to be paid.

(9) ‘Initiating party’ means the party, the attorney for a party, a child support enforcement agency, or the clerk of superior court who initiates an action, proceeding, or procedure as allowed or required by law for the establishment or enforcement of a child support obligation.

(10) ‘Mistake of fact’ means that the obligor:

- (a) is not in arrears in an amount equal to the support payable for one month; or
- (b) did not request that withholding begin, if withholding is pursuant to a purported request by the obligor for withholding; or
- (c) is not the person subject to the court order of support for the child named in the advance notice of withholding.

(11) ‘Obligee’, in a IV-D case, means the child support enforcement agency, and in a non-IV-D case means the individual to whom a duty of support is owed or the individual’s legal representative.

(12) ‘Obligor’ means the individual who owes a duty to make child support payments under a court order.

(13) ‘Payor’ means any payor, including any federal, State, or local governmental unit, of disposable income to an obligor. When the payor is an employer, payor means employer as is defined at 29 USC + 203(d) in the Fair Labor Standards Act.”

Sec. 2. Article 9 of Chapter 110 of the General Statutes is amended by adding new sections following G.S. 110-136.2 to read:

“§ 110-136.3. *Income withholding procedures; applicability.*—(a) Required contents of support orders. All child support orders, civil or criminal, entered or modified in the State beginning October 1, 1986, shall:

- (1) require the obligor to keep the clerk of court or IV-D agency informed of his current residence and mailing address and of the name and address of any payor of his disposable income and of the amount and effective date of any substantial change in his disposable income, and
- (2) provide for implementation of income withholding procedures as provided in this Article.

(b) When obligor subject to withholding. An obligor shall become subject to income withholding on the earliest of:

- (1) the date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month; or
- (2) the date on which the obligor requests withholding.

(c) Applicability. Notwithstanding any other provision of law, the income withholding provisions of this Article shall apply to any civil or criminal child support order, entered or modified before, on, or after October 1, 1986.

(d) Interstate cases. An interstate case is one in which a child support order of one state is to be enforced in another state.

- (1) In interstate cases withholding provisions shall apply to a child support order of this or any other state. A petition addressed to this State to enforce a child support order of another state or a petition from an initiating party in this State addressed to another state to enforce a child support order entered in this State shall include:

- a. A certified copy of the support order with all modifications, including any income withholding notice or order still in effect;
- b. A copy of the income withholding law of the jurisdiction which issued the support order, provided that such jurisdiction has a withholding law;
- c. A sworn statement of arrearages;
- d. The name, address, and social security number of the obligor, if known;
- e. The name and address of the obligor's employer or of any other source of income of the obligor derived in the state in which withholding is sought; and
- f. The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

For purposes of enforcing a petition under this subsection, jurisdiction is limited to the purposes of income withholding.

- (2) The law of the state in which the support order was entered shall apply in determining when withholding shall be implemented and interpreting the child support order. The law and procedures of the state where the obligor is employed shall apply in all other respects.

- (3) Except as otherwise provided by subdivision (2), income withholding initiated under this subsection is subject to all of the notice, hearing and other provisions of Chapter 110.
- (4) In all interstate cases notices and orders to withhold shall be served upon the payor by a North Carolina agency or judicial officer. In all interstate non-IV-D cases, the advance notice to the obligor shall be served pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure.

(e) Procedures and regulations. Procedures, rules, regulations, forms, and instructions necessary to effect the income withholding provisions of this Article shall be established by the Secretary of the Department of Human Resources or his designee and the Administrative Office of the Courts. Forms and instructions shall be sent with each order or notice of withholding.

“§ 110-136.4. *Implementation of withholding in IV-D cases.*—(a) Advance notice of withholding. When an obligor in a IV-D case becomes subject to income withholding, the obligee shall, after verifying the obligor's current employer or other payor, wages or other disposable income, and mailing address, serve the obligor with advance notice of withholding in accordance with G.S. 1A-1, Rule 4, Rules of Civil Procedure.

(b) Contents of advance notice. The advance notice to the obligor shall contain, at a minimum, the following information:

- (1) whether the proposed withholding is based on the obligor's failure to make legally obligated payments in an amount equal to the support payable for one month or on the obligor's request for withholding;
- (2) the amount of overdue support, the total amount to be withheld, and when the withholding will occur;
- (3) the name of each child for whose benefit the child support is due, and information sufficient to identify the court order under which the obligor has a duty to support the child;
- (4) the amount and sources of disposable income;
- (5) that the withholding will apply to the obligor's wages or other sources of disposable income from current payors and all subsequent payors once the procedures under this section are invoked;
- (6) an explanation of the obligor's rights and responsibilities pursuant to this section;
- (7) that withholding will be continued until terminated pursuant to G.S. 110-136.10.

(c) Contested withholding. The obligor may contest the withholding only on the basis of a mistake of fact. To contest the withholding, the obligor must, within 10 days of receipt of the advance notice of withholding, request a hearing in the county where the support order was entered before the district court and give notice to the obligee specifying the mistake of fact upon which the hearing request is based. If the asserted mistake of fact can be resolved by agreement between the obligee and the obligor, no hearing shall occur. Otherwise, a hearing shall be held and a determination made, within 30 days of the obligor's receipt of the advance notice of withholding, as to whether the asserted mistake of fact

is valid. No withholding shall occur pending the hearing decision. The failure to hold a hearing within 30 days shall not invalidate an otherwise properly entered order. If it is determined that a mistake of fact exists, no withholding shall occur. Otherwise, within 45 days of the obligor's receipt of the advance notice of withholding, the obligee shall serve the payor, pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure, with notice of his obligation to withhold, and shall mail a copy of such notice to the obligor and file a copy with the clerk. In the event of appeal, withholding shall not be stayed. If the appeal is concluded in favor of the obligor, the obligee shall promptly repay sums wrongfully withheld and notify the payor to cease withholding.

(d) Uncontested withholding. If the obligor does not contest the withholding within the 10-day response period, the obligee shall serve the payor, pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure, with notice of his obligation to withhold, and shall mail a copy of such notice to the obligor and file a copy with the clerk.

(e) Payment not a defense to withholding. The payment of overdue support shall not be a basis for terminating or not implementing withholding.

(f) Multiple withholdings. The obligor must notify the obligee if the obligor is currently subject to another withholding for child support. In the case of two or more withholdings against one obligor, the obligee or obligees shall attempt to resolve any conflict between the orders in a manner that is fair and equitable to all parties and within the limits specified by G.S. 110-136.6. If the conflict cannot be so resolved, an injured party, upon request, shall be granted a hearing in accordance with the procedure specified in G.S. 110-136.4(c). The conflict between the withholding orders shall be resolved in accordance with G.S. 110-136.7.

(g) Inability to implement withholding. When an obligor is subject to withholding, but withholding under this section cannot be implemented because the obligor's location is unknown, because the extent and source of his disposable income cannot be determined, or for any other reason, the obligee shall either request the clerk of superior court to initiate enforcement proceedings under G.S. 15A-1344.1(d) or G.S. 50-13.9(d) or take other appropriate available measures to enforce the support obligation.

(h) Modification of withholding. When an order for withholding has been entered under this section, the obligee may modify the withholding based on changed circumstances. The obligee shall proceed as is provided in this section.

(i) Applicability of section. The provisions of this section apply to IV-D cases only.

“§ 110-136.5. *Implementation of withholding in non-IV-D cases.*—(a) Motion or complaint or consent order for withholding. Notwithstanding any other provision of law, any obligee may apply to the court for an order of income withholding, or at any time the parties may agree to income withholding by consent order. The obligee may apply to the court by motion or in an independent action. The motion or complaint shall be verified and state, to the extent known:

- (1) that the obligor is under a court order to provide child support, and information sufficient to identify the order;
 - (2) that the obligor is delinquent in an amount equal to the support payable for one month or that the obligor has requested that income withholding begin;
 - (3) the amount of overdue support and the total amount sought to be withheld;
 - (4) the name of each child for whose benefit support is due;
 - (5) the name, location, and mailing address of the payor or payors from whom withholding is sought and the amount of the obligor's monthly disposable earnings from each payor.
- (b) Notice to obligor. The motion or complaint shall include or be accompanied by a notice to the obligor, stating:
- (1) that withholding, if implemented, will apply to the obligor's current payors and all subsequent payors;
 - (2) that withholding, if implemented, will be continued until terminated pursuant to G.S. 110-136.10.
- (c) Order for withholding. If the district court judge finds after hearing evidence that the obligor, at the time of the filing of the motion or complaint was, or at the time of the hearing is, delinquent in child support payments in an amount equal to the support payable for one month or that the obligor has requested that income withholding begin, the court shall enter an order for income withholding, unless:
- (1) the obligor proves a mistake of fact; or
 - (2) the court finds that the child support obligation can be enforced and the child's right to receive support can be ensured without entry of an order for income withholding; or
 - (3) the court finds that the obligor has no disposable income subject to withholding or that withholding is not feasible for any other reason.

If the obligor fails to respond or appear, the court shall hear evidence and enter an order as provided herein.

(d) Notice to payor and obligor. If an order for income withholding is entered, a notice of obligation to withhold shall be served by certified mail, return receipt requested, on the payor or payors and the obligor.

(e) Modification of withholding. When an order for withholding has been entered under this section, any party may file a motion seeking modification of the withholding based on changed circumstances. The clerk or the court on its own motion may initiate a hearing for modification when it appears that modification of the withholding is required or appropriate.

"§ 110-136.6. *Amount to be withheld.*—(a) Computation of amount. When income withholding is implemented pursuant to this Article, the amount to be withheld shall include:

- (1) an amount sufficient to pay current child support; and
- (2) an additional amount toward liquidation of arrearages; and
- (3) a processing fee of two dollars (\$2.00) to cover the cost of withholding, to be retained by the payor for each withholding unless waived by the payor.

The amount withheld may also include court costs and attorneys fees as may be awarded by the court in non-IV-D cases and as may be awarded by the court in IV-D cases pursuant to G.S. 110-130.1.

(b) Limits on amount withheld. Withholding for current support, arrearages, processing fees, court costs, and attorneys fees shall not exceed forty percent (40%) of the obligor's disposable income for one pay period from the payor when there is one order of withholding. The sum of multiple withholdings, for current support, arrearages, processing fees, court costs, and attorneys fees shall not exceed:

- (1) forty-five percent (45%) of disposable income for one pay period from the payor in the case of an obligor who is supporting his spouse or other dependent children; or
- (2) fifty percent (50%) of disposable income for one pay period from the payor in the case of an obligor who is not supporting a spouse or other dependent children.

(c) Contents of order and notice. An order or advance notice for withholding and any notice to a payor of his obligation to withhold shall state a specific monetary amount to be withheld and the amount of disposable income from the applicable payor on which the amount to be withheld was determined. The notice shall clearly indicate that in no event shall the amount withheld exceed the appropriate percentage of disposable income paid by a payor as provided in subsection (b).

“§ 110-136.7. *Multiple withholding.*—When an obligor is subject to more than one withholding for child support, withholding for current child support shall have priority over past-due support. Where two or more orders for current support exist, each family shall receive a pro rata share of the total amount withheld based on the respective child support orders being enforced.

“§ 110-136.8. *Notice to payor; payor's responsibilities.*—(a) Contents of notice. Notice to a payor of his obligation to withhold shall include information regarding the payor's rights and responsibilities, the amount of disposable income attributable to that payor on which that withholding is based, the penalties under this section, and the maximum percentages of disposable income that may be withheld as provided in G.S. 110-136.6.

(b) Payor's responsibilities. A payor who has been properly served with a notice to withhold is required to:

- (1) withhold from the obligor's disposable income and, within 10 days of the date the obligor is paid, send to the clerk of superior court specified in the notice, the amount specified in the notice, but in no event more than the amount allowed by G.S. 110-136.6; however, if a lesser amount of disposable income is available for any pay period, the payor shall either: (a) compute and send the appropriate amount to the clerk of court, using the percentages as provided in G.S. 110-136.6, or (b) request the initiating party to inform the payor of the proper amount to be withheld for that period;
- (2) continue withholding until further notice from the IV-D agency or the clerk of superior court;

- (3) withhold for child support before withholding pursuant to any other legal process under State law against the same disposable income;
 - (4) begin withholding from the first payment due the obligor in the first pay period that occurs 14 days following the date the notice of the obligation to withhold was served on the payor;
 - (5) promptly notify the obligee in a IV-D case, or the clerk of superior court in a non-IV-D case, in writing:
 - a. if there is more than one child support withholding for the obligor;
 - b. when the obligor terminates employment or otherwise ceases to be entitled to disposable income from the payor, and provide the obligor's last known address, and the name and address of his new employer, if known;
 - c. the payor's inability to comply with the withholding for any reason.
 - (c) Change in obligor's employment. If the obligor changes employment within the State when withholding is in effect, the requirement for withholding shall continue, and
 - (1) in a IV-D case, the IV-D obligee shall make any necessary adjustments to the withholding, notify the obligor and his new employer in accordance with this section, and file a copy of the adjusted withholding with the clerk of superior court;
 - (2) in a non-IV-D case, the clerk shall serve a notice of obligation to withhold according to the terms of the withholding order on the new employer and on the obligor; if the obligor or payor gives notice that an adjustment to the withholding order, other than the change in payor, is needed, the matter shall be scheduled for hearing before a child support hearing officer or district court judge who shall make any necessary adjustments to the withholding.
 - (d) The payor may combine amounts withheld from obligors' disposable incomes in a single payment to each clerk of superior court if the payor separately identifies by name and case number the portion of the single payment attributable to each individual obligor.
 - (e) Prohibited conduct by payor; civil penalty. Notwithstanding any other provision of law, when a court finds, pursuant to a motion in the cause filed by the initiating party joining the payor as a third party defendant, with 30 days notice to answer the motion, that a payor has willfully refused to comply with the provisions of this section, such payor shall be ordered to commence withholding and shall be held liable to the initiating party for any amount which such payor should have withheld, except that such payor shall not be required to vary the normal pay or disbursement cycles in order to comply with these provisions.
- A payor shall not discharge from employment, refuse to employ, or otherwise take disciplinary action against any obligor solely because of the withholding. When a court finds that a payor has taken any of these actions, the payor shall be liable for a civil penalty to be paid to the county school fund. For a first offense, the civil penalty shall be one hundred dollars (\$100.00). For second and third offenses, the civil penalty shall be

five hundred dollars (\$500.00) and one thousand dollars (\$1,000), respectively. Any payor who violates any provision of this paragraph shall be liable in a civil action for reasonable damages suffered by an obligor as a result of the violation, and an obligor discharged or demoted in violation of this paragraph shall be entitled to be reinstated to his former position. The statute of limitations for actions under this subsection shall be one year pursuant to G.S. 1-54.

(f) Any payor who withholds the sum provided in any notice or order to the payor shall not be liable for any penalties under this section.

“§ 110-136.9. *Payment of withheld funds.*—In IV-D cases, when required by federal or State law or regulations or by court order, the clerk of superior court shall transmit payments received from payors to the Department of Human Resources for appropriate distribution. In all other cases, unless a court order requires otherwise, the clerk of superior court shall transmit the payments to the custodial parent.

“§ 110-136.10. *Termination of withholding.*—A requirement that income be withheld for child support shall promptly terminate as to prospective payments when the payor receives notice from the court or IV-D agency that:

- (1) the child support order has expired or become invalid; or
- (2) the initiating party, the obligor, and the district court judge agree to termination because there is another adequate means to collect child support or arrearages; or
- (3) the whereabouts of the child and obligee are unknown, except that withholding shall not be terminated until all valid arrearages to the State are paid in full.”

Sec. 3. G.S. 50-13.9(b) is amended by adding at the end the following to read:

“In IV-D cases, when required by federal or state law or regulations or by court order, the clerk of superior court shall transmit child support payments that are made to the clerk to the Department of Human Resources for appropriate distribution. In all other cases, whether IV-D or non-IV-D, the clerk shall transmit the payments to the custodial parent or other party entitled to receive them, unless a court order requires otherwise.”

Sec. 4. G.S. 50-13.9(d) is rewritten to read:

“(d) In a non-IV-D case, when an obligor fails to make a required payment of child support and is in arrears, the clerk of superior court shall mail by regular mail to the last known address of the obligor a notice of delinquency. The notice shall set out the amount of child support currently due and shall demand immediate payment of said amount. The notice shall also state that failure to make immediate payment will result in the issuance by the court of an enforcement order requiring the obligor to appear before a district court judge and show cause why the support obligation should not be enforced by income withholding, contempt of court, or other appropriate means. Failure to receive the delinquency notice shall not be a defense in any subsequent proceeding. If income withholding has been implemented against the obligor or the obligor has been previously found in contempt for nonpayment under the same child

support order, sending the notice of delinquency shall be in the discretion of the clerk.

If the arrearage is not paid in full within 21 days after the mailing of the delinquency notice, or is not paid within 30 days after the obligor becomes delinquent if the clerk has elected not to send a delinquency notice, the clerk shall cause an enforcement order to be issued and shall issue a notice of hearing before a district court judge. The enforcement order shall order the obligor to appear and show cause why he should not be subjected to income withholding or adjudged in contempt of court, or both, and shall order the obligor to bring to the hearing records and information relating to his employment and the amount and sources of his disposable income. The enforcement order shall state:

- (1) that the obligor is under a court order to provide child support, the name of each child for whose benefit support is due, and information sufficient to identify the order;
- (2) that the obligor is delinquent and the amount of overdue support;
- (3) that the court may order income withholding if the obligor is delinquent in an amount equal to the support due for one month;
- (4) that income withholding, if implemented, will apply to the obligor's current payors and all subsequent payors and will be continued until terminated pursuant to G.S. 110-136.10;
- (5) that failure to bring to the hearing records and information relating to his employment and the amount and sources of his disposable income will be grounds for contempt;
- (6) that if income withholding is not an available or appropriate remedy, the court may determine whether the obligor is in contempt or whether any other enforcement remedy is appropriate.

The enforcement order may be signed by the clerk or a district court judge, and shall be served on the obligor pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure. The clerk shall also notify the party to whom support is owed of the pending hearing. The clerk may withdraw the order to the supporting party upon receipt of the delinquent payment. On motion of the person to whom support is owed, with the approval of the district court judge, if he finds it is in the best interest of the child, no enforcement order shall be issued.

When the matter comes before the court, the court shall proceed as in the case of a motion for income withholding under G.S. 110-136.5. If income withholding is not an available or adequate remedy, the court may proceed with contempt, imposition of a lien, or other available, appropriate enforcement remedies.

This subsection shall apply only to non-IV-D cases, except that the clerk shall issue an enforcement order in a IV-D case when requested to do so by an IV-D obligee."

Sec. 5. G.S. 50-13.9(f) is amended by rewriting the first seven lines to read:

"(f) At least seven days prior to an enforcement hearing as set forth in subsection (d), the clerk must notify the district court judge of all cases to be heard for enforcement at the next term, and the judge shall appoint an attorney from the list described in subsection (e) to represent each

party to whom support payments are owed if the judge deems it to be in the best interest of the child for whom support is being paid, unless:"

G.S. 50-13.9(f) is further amended by rewriting the last sentence to read:

"The judge may order payment of reasonable attorney's fees as provided in G.S. 50-13.6."

Sec. 6. G.S. 50-13.9(g) is rewritten to read:

"(g) Nothing in this section shall preclude the independent initiation by a party of proceedings for civil contempt or for income withholding."

Sec. 7. G.S. 15A-1344.1(d) is rewritten to read:

"(d) When a defendant in a non-IV-D case, as defined in G.S. 110-129, fails to make required payments of child support and is in arrears, the clerk of superior court may mail by regular mail to the last known address of the defendant a notice of delinquency which shall set out the amount of child support currently due and which shall demand immediate payment of said amount. Failure to receive the delinquency notice shall not be a defense in any probation violation hearing or other proceeding thereafter. If the arrearage is not paid in full within 21 days after the mailing of the delinquency notice, or is not paid within 30 days after the defendant becomes delinquent if the clerk has elected not to send a delinquency notice, the clerk shall certify the amount due to the district attorney and probation officer, who shall initiate proceedings for revocation of probation pursuant to Article 82 of Chapter 15A or make a motion in the criminal case for income withholding pursuant to G.S. 110-136.5 or both.

When a defendant in a IV-D case, as defined in G.S. 110-129, fails to make required payments of child support and is in arrears, at the request of the IV-D obligee the clerk shall certify the amount due to the district attorney and probation officer, who shall initiate proceedings for revocation of probation pursuant to Article 82 of Chapter 15A or make a motion in the criminal case for income withholding pursuant to G.S. 110-136.5 or both."

Sec. 8. Chapter 52A of the General Statutes is amended by adding a new section to read:

"§ 52A-30.1. *Income withholding.*—Income withholding pursuant to G.S. 110-136.3 through 110-136.10 is available as a remedy to allow withholding from income derived in this State to enforce support orders from other states."

Sec. 9. Nothing in this act shall be construed as affecting any garnishment proceeding heretofore or hereafter instituted.

Sec. 10. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

S.B. 926

CHAPTER 950

AN ACT TO ELIMINATE THE REQUIREMENT THAT THE CITY OF ASHEBORO AND COUNTIES OF SCOTLAND, STANLY, UNION, AND RICHMOND MAIL ZONING NOTICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 595, Session Laws of 1985 is amended by adding a new section to read:

“Sec. 2.1. This act does not apply to the City of Asheboro. This act does not apply to the Counties of Scotland, Stanly, and Union, and Richmond and does not apply to any incorporated cities or towns located wholly within those counties.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

S.B. 942

CHAPTER 951

AN ACT TO CLARIFY THE EMERGENCY MEDICAL TECHNICIAN CERTIFICATION PROCESS IN CURRITUCK COUNTY AND DARE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-159 is amended by adding a new subsection to read:

“(d) An individual currently certified as an emergency medical technician in another state who meets the certification, training, and recertification requirements approved by the Commission and who is affiliated with a currently permitted ambulance provider providing ambulance service within North Carolina is eligible for certification as an emergency medical technician without examination.”

Sec. 2. This act applies only to Currituck County and Dare County.

Sec. 3. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

H.B. 759

CHAPTER 952

AN ACT TO VALIDATE CERTAIN JUDGMENTS OF DIVORCE ENTERED UPON ANY OF THE GROUNDS ABOLISHED BY CHAPTER 613 OF THE 1983 SESSION LAWS AS AMENDED BY SECTION 217(O) OF CHAPTER 923 OF THE 1983 SESSION LAWS AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 50 of the General Statutes is amended by adding a new section to read as follows:

“§ 50-11.4. *Certain judgments of divorce validated.*—Any judgment of divorce entered as a result of an action instituted prior to October 1, 1983,

upon any grounds abolished by Chapter 613 of the 1983 Session Laws as amended by Section 217(O) of Chapter 923 of the 1983 Session Laws, which is proper in all other respects, is hereby rendered valid and of full force and effect.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

H.B. 883

CHAPTER 953

AN ACT TO EXPAND THE SALES TAX EXEMPTION FOR FARM PRODUCTS TO INCLUDE ALL FARM PRODUCTS SOLD BY THE PRODUCER OF THE PRODUCTS, REGARDLESS WHETHER THE PRODUCER IS ALSO A RETAIL DEALER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(3) is amended by deleting the phrase “farms,”.

Sec. 2. G.S. 105-164.13 is amended by adding a new subdivision in the Agricultural Group to read:

“(4.2) Products of a farm sold in their original state by the producer of the products if the producer is not primarily a retail merchant.”

Sec. 3. This act shall become effective August 1, 1986.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

H.B. 1548

CHAPTER 954

AN ACT TO AUTHORIZE CAMDEN COUNTY TO LEVY AN EXCISE TAX ON INSTRUMENTS CONVEYING REAL PROPERTY IN CAMDEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Tax. (a) Authorization. The Camden County Board of Commissioners may, by resolution, levy an excise tax on instruments conveying certain interests in real property in Camden County, including instruments that convey an interest in a mobile home that, at the time of the conveyance, is taxed as real property. The tax imposed may not exceed one dollar (\$1.00) on each one hundred dollars (\$100.00) or fraction thereof of the consideration or value of the interest conveyed, including the value of any lien or encumbrance remaining on the property at the time of sale. This tax is in addition to the tax levied by Article 8E of Chapter 105 of the General Statutes.

(b) Scope. A tax levied under this act applies to all instruments conveying an interest in real property in Camden County except an instrument:

- (1) Conveying an interest in real property from the United States, the State, or a political subdivision of the State;
- (2) Securing indebtedness; or

- (3) Recording a transfer in which no consideration was paid or is due the transferor by the transferee.

In addition, this tax does not apply to conveyances of an interest in real property by operation of law, by will, by intestacy, by merger, or by consolidation.

(c) Collection. A tax levied under this act is payable by the transferor of the interest to the Camden County Tax Collector, who shall administer the tax. This tax must be paid at the tax collector's office before the instrument conveying the interest is recorded. The tax collector shall stamp or otherwise mark each instrument subject to the tax to indicate that the tax has been paid. The Camden County Register of Deeds may not accept for recordation an instrument subject to a tax levied under this act unless the instrument bears the tax collector's mark indicating that the tax has been paid.

(d) Use of tax revenue. The proceeds of a tax levied under this act shall be placed in a special Capital Reserve Fund in the general fund of Camden County. Revenue in this Fund may be used by the county only for capital expenditures.

(e) Penalties. A person who knowingly fails to pay a tax levied under this act, who knowingly aids another to fail to pay a tax levied under this act, or who, to avoid paying part or all of the tax due under this act knowingly misstates the total consideration for an interest conveyed is guilty of a misdemeanor and is punishable by imprisonment for up to two years and a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000).

(f) Taxes recoverable by action. If a transferor fails to pay a tax imposed by this act within 30 days of the tax collector's demand that he pay the tax, the tax may be recovered by Camden County in an action brought in the district court of the county. In an action to recover a tax imposed under this act, costs of court shall include a fee to the county of twenty-five dollars (\$25.00) for the expense of collection. The court may award attorney's fees to the county.

(g) Effective date; application. A tax levied under this act shall become effective on the first day of a month, as designated in the resolution levying the tax, and may not become effective for at least 30 days after the adoption of the resolution. A tax levied under this act applies to instruments that are recorded on or after the effective date of the levy, except instruments recorded on or after that date that convey an interest in real property pursuant to a written contract made before the effective date.

(h) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Camden County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month, as designated in the resolution repealing the tax, and shall apply to instruments recorded on or after the effective date of the repeal. Repeal of a tax levied under this act does not affect a liability for the repealed tax that attached before the effective date of the repeal.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

H.B. 1753

CHAPTER 955

AN ACT TO FURTHER PROVIDE FOR THE SEPARATION OF POWERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Separation of Powers Act of 1986.

Sec. 2. G.S. 20-189 is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 3. G.S. 20-189 is amended by adding at the end "Prior to taking any action under the previous sentence, the Governor may consult with the Advisory Budget Commission."

Sec. 4. G.S. 58-191.4 is amended by deleting "after receiving the advice of the Advisory Budget Commission."

Sec. 5. G.S. 58-191.4 is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 6. G.S. 95-135(c) is amended by deleting "with the approval of the Advisory Budget Commission".

Sec. 7. G.S. 95-135(c) is amended by adding at the end "Prior to taking any action under this subsection to set compensation, the Governor may consult with the Advisory Budget Commission."

Sec. 8. G.S. 105-455 is amended by deleting "repairing", and substituting "preparing".

Sec. 9. G.S. 106-26.20 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 10. G.S. 106-26.20 is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 11. G.S. 108A-33(d) is amended by deleting "and consultation with the Advisory Budget Commission".

Sec. 12. G.S. 108A-33(d) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 13. G.S. 113-315.31(a) is amended by deleting "after receiving the advice of the Advisory Budget Commission".

Sec. 14. G.S. 113-315.31(a) is amended by adding at the end "Prior to taking any action under this subsection, the Governor may consult with the Advisory Budget Commission."

Sec. 15. G.S. 115C-144 is amended by deleting "to the Advisory Budget Commission", and substituting "to the Governor and Advisory Budget Commission".

Sec. 16. G.S. 115C-144 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 17. G.S. 115C-243(f) is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 18. G.S. 115C-243(f) is amended by adding at the end "Prior to taking any action under this subsection, the State Board of Education may consult with the Advisory Budget Commission."

Sec. 19. G.S. 115D-3 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 20. G.S. 115D-3 is amended by adding at the end "Prior to taking any action under this section where joint approval is required, the Governor and State Board of Community Colleges may consult with the Advisory Budget Commission."

Sec. 21. The last paragraph of G.S. 115D-4 is amended by deleting "shall consult", and substituting "may consult".

Sec. 22. The last paragraph of G.S. 115D-5(e) is amended by deleting "shall consult", and substituting "may consult".

Sec. 23. G.S. 116-11(9)a. is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 24. G.S. 116-11(9)b. is amended by deleting "(after the Director of the Budget consults with the Advisory Budget Commission)".

Sec. 25. G.S. 116-11(9)b. is amended by adding at the end "Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 26. G.S. 116-11(9)c. is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 27. G.S. 116-11(9)c. is amended by adding at the end "Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 28. G.S. 116-36(g) is amended by deleting "after the Director of the Budget consults with the Advisory Budget Commission".

Sec. 29. G.S. 116-36(g) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 30. G.S. 116-37(e) is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 31. G.S. 116-37(e) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 32. G.S. 116-41.4 is amended by deleting the words "after the Director of the Budget consults with the Advisory Budget Commission" each time those words appear.

Sec. 33. G.S. 116-41.4 is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 34. G.S. 116-41.9 is amended by deleting "after consultation with the Advisory Budget Commission" each time those words appear.

Sec. 35. G.S. 116-41.9 is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 36. G.S. 116-175.1 is amended by deleting "shall consult", and substituting "may consult".

Sec. 37. G.S. 116-187.1 is amended by deleting “shall consult”, and substituting “may consult”.

Sec. 38. G.S. 116-209.19 is amended by deleting “Advisory Budget Commission,”.

Sec. 39. G.S. 116-209.19 is amended by adding at the end “Prior to taking any action under this subsection, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 40. G.S. 121-12.1 is amended by inserting at the end the words “The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 41. G.S. 122A-8.1 is amended by deleting “after consultation with the Advisory Budget Commission”.

Sec. 42. The fifth paragraph of G.S. 122A-8.1 is amended by adding at the end: “Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission.”

Sec. 43. G.S. 126-5(c1)(5) is amended by deleting “or consultation with the Advisory Budget Commission.”

Sec. 44. G.S. 126-8.1(c) is amended by deleting “after consultation with the Advisory Budget Commission.”

Sec. 45. G.S. 126-8.1(c) is amended by adding at the end “Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission.”

Sec. 46. The last sentence of G.S. 136-28.1(f) is amended by deleting “shall”, and substituting “may”.

Sec. 47. G.S. 136-44.37 is amended by deleting “after the Director of the Budget consults with the Advisory Budget Commission is authorized to”, and substituting “may”.

Sec. 48. G.S. 136-44.37 is amended by adding the following at the end: “Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission.”

Sec. 49. G.S. 136-44.38(a) is amended by deleting “after the Director of the Budget consults with the Advisory Budget Commission.”

Sec. 50. G.S. 136-44.38(a) is amended by adding the following at the end: “Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission.”

Sec. 51. G.S. 138-4 is amended by deleting “subject to consultation with the Advisory Budget Commission”.

Sec. 52. G.S. 138-4 is amended by deleting “after consultation with the Advisory Budget Commission.”

Sec. 53. G.S. 138-4 is amended by adding at the end “Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission.”

Sec. 54. G.S. 140-12 is amended by deleting “after consultation with the Advisory Budget Commission”.

Sec. 55. G.S. 140-12 is amended by adding at the end “Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission.”

Sec. 56. The third paragraph of G.S. 143-4 is amended by deleting “The Governor shall call”, and substituting “The Governor may call”.

Sec. 57. The fifth paragraph of G.S. 143-4 is amended by deleting "shall serve as staff", and substituting "may serve as staff".

Sec. 58. The last paragraph of G.S. 143-4 is amended by deleting "is required by law", and substituting "is required or permitted by law or by action of any officer of the Executive".

Sec. 59. G.S. 143-4.1 is amended by adding at the end "The Governor may make a biennial inspection of those facilities of the State he deems necessary."

Sec. 60. The second paragraph of G.S. 143-10 is amended by deleting ", together with the Commission,".

Sec. 61. The second paragraph of G.S. 143-10 is amended by adding at the end "Prior to taking any action under this subsection to provide for public hearings, the Governor may consult with the Advisory Budget Commission."

Sec. 62. G.S. 143-11 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 63. G.S. 143-12 is amended by deleting ", by and with the advice of the Commission,".

Sec. 64. G.S. 143-12 is amended by adding the following at the beginning of the last paragraph "The Director of the Budget may, in preparation of the Appropriations and Revenue Bills, seek the advice of the Advisory Budget Commission."

Sec. 65. G.S. 143-16.1 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 66. G.S. 143-18.1(a) is amended by deleting "After consultation with the Advisory Budget Commission and upon", and substituting "Upon".

Sec. 67. G.S. 143-18.1(a) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 68. G.S. 143-18.1(b) is amended by deleting "After consultation with the Advisory Budget Commission and upon", and substituting "Upon".

Sec. 69. G.S. 143-18.1(b) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 70. G.S. 143-18.1(c) is amended by deleting "after consultation with the Advisory Budget Commission and the Capital Building Authority".

Sec. 71. G.S. 143-18.1(c) is amended by adding at the end "Prior to taking any action under this section to authorize a project, the Governor or the Director of the Budget may consult with the Advisory Budget Commission and the Capital Planning Commission."

Sec. 72. G.S. 143-23(a) is amended by inserting at the end the words "The function of the Advisory Budget Commission under this subsection

applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 73. G.S. 143-25 is amended by deleting “, after consultation with the Advisory Budget Commission.”.

Sec. 74. G.S. 143-25 is amended by adding at the end “Prior to taking any action under this section to reduce appropriations pro rata, the Governor may consult with the Advisory Budget Commission.”

Sec. 75. G.S. 143-30 is amended by inserting at the end the words “The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 76. G.S. 143-31.3 is amended by inserting at the end the words “The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 77. G.S. 143-33 is amended by inserting at the end the words “The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 78. G.S. 143-34.2 is amended by inserting at the end the words “The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 79. G.S. 143-49(4) is amended by deleting “and after consultation with the Advisory Budget Commission.”

Sec. 80. G.S. 143-49(4) is amended by adding at the end: “Prior to taking any action under this subdivision concerning expenditures from the equipment reserve fund, the Secretary may consult with the Advisory Budget Commission.”

Sec. 81. G.S. 143-49(6) is amended by deleting “after consultation with the Advisory Budget Commission.”

Sec. 82. G.S. 143-49(6) is amended by adding at the end “Prior to adopting rules and regulations under this subdivision, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 83. G.S. 143-52 is amended by deleting “, after consultation with the Advisory Budget Commission.”.

Sec. 84. G.S. 143-52 is amended by adding at the end “Prior to adopting other methods of advertisement under this section, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 85. G.S. 143-52 is amended by deleting “after consultation with the Advisory Budget Commission”.

Sec. 86. G.S. 143-52 is amended by adding at the end “Prior to adopting rules and regulations under this section, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 87. G.S. 143-53 is amended by deleting “after consultation with the Advisory Budget Commission.”

Sec. 88. G.S. 143-53 is amended by adding at the end “Prior to adopting rules and regulations under this section, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 89. G.S. 143-60 is amended by deleting “after consultation with the Advisory Budget Commission” both places those words appear.

Sec. 90. G.S. 143-60 is amended by adding at the end “Prior to taking any action under this section, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 91. G.S. 143-215.40(a) is amended by deleting “after the Governor consults with the Advisory Budget Commission”.

Sec. 92. G.S. 143-215.40(a) is amended by adding at the end “Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission.”

Sec. 93. G.S. 143-215.73 is rewritten to read:

“§ 143-215.73. *Recommendation and disbursal of grants.*— After review of grant applications, project funds shall be disbursed and monitored by the Department of Natural Resources and Community Development. After review, but before transfer of funds from the Department’s reserve fund into accounts for specific projects, the Secretary may forward the applications to the Advisory Budget Commission for its review of the recommendations.”

Sec. 94. G.S. 143-341(8)i.7a is amended by deleting “and the advice of the Advisory Budget Commission”.

Sec. 94.1. G.S. 143-341(8)i.7a is amended by adding at the end “Prior to adopting rules under this paragraph, the Secretary of Administration may consult with the Advisory Budget Commission.”

Sec. 95. Section 16 of Chapter 479, Session Laws of 1985, is amended by deleting “with the advice of the Advisory Budget Commission”.

Sec. 96. G.S. 143A-17 is amended by inserting at the end the words “The function of the Advisory Budget Commission under the preceding sentence applies only if the Director of the Budget consults with the Commission in preparation of the budget.”

Sec. 97. G.S. 143B-10(d) is amended by deleting “when approved in advance by the Advisory Budget Commission”, and substituting “when approved in advance by the Director of the Budget.”

Sec. 98. G.S. 143B-10(d) is amended by adding “Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission.”

Sec. 99. G.S. 143B-426.11(5) is amended by deleting “Advisory Budget Commission”, and substituting “Director of the Budget”.

Sec. 100. G.S. 143B-426.11(7) is amended by deleting “Subject to consultation with the Advisory Budget Commission and under”, and substituting “Under”.

Sec. 101. G.S. 143B-426.11 is amended by adding at the end: “Prior to taking any action under subdivisions (5) or (7) of this section, the Board may consult with the Advisory Budget Commission.”

Sec. 102. G.S. 143B-454(9) is amended by deleting “, after receiving the advice of the Advisory Budget Commission”.

Sec. 103. G.S. 143B-454 is amended by adding at the end “Prior to taking any action under this subsection, the Authority may consult with the Advisory Budget Commission.”

Sec. 104. G.S. 143B-456(b) is amended by deleting “, after receiving the advice of the Advisory Budget Commission.”

Sec. 105. G.S. 143B-456(b) is amended by adding at the end "Prior to taking any action under this subsection, the Governor may consult with the Advisory Budget Commission."

Sec. 106. G.S. 147-12(3) is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 107. G.S. 147-12(3) is amended by adding at the end of the last paragraph "Prior to taking any action under this paragraph, the Governor may consult with the Advisory Budget Commission."

Sec. 108. Section 6(a) of Chapter 479, Session Laws of 1985, is amended by rewriting the last sentence to read: "Prior to varying any overexpenditure or underexpenditure in any title by more than ten percent (10%), the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 109. Section 16 of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 110. Section 16 of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 111. Section 86(a) of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 112. Section 86(a) of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 113. Section 86(d) of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 114. Section 86(d) of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 115. Section 87 of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 116. Section 87 of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 117. Section 3 of Chapter 480, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 118. Section 3 of Chapter 480, Session Laws of 1985, is amended by rewriting the last sentence to read: "Prior to approving the elements of financing of these projects, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 119. Section 6 of Chapter 480, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 120. Section 6 of Chapter 480, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 121. Section 8 of Chapter 480, Session Laws of 1985, is amended by deleting "After consultation with the Advisory Budget Commission and upon", and substituting "Upon".

Sec. 122. Section 8 of Chapter 480, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 123. Section 9 of Chapter 480, Session Laws of 1985, is amended by deleting ", after consultation with the Advisory Budget Commission,".

Sec. 124. Section 9 of Chapter 480, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 125. Section 19 of Chapter 578, Session Laws of 1983, validating certain actions, is reenacted.

Sec. 126. Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-16.2. *Reports.*—Whenever the Governor or any other executive officer, agency, board, or commission is authorized by law to consult with the Advisory Budget Commission prior to taking some action, if there has been no consultation such action should be reported in writing to the Speaker of the House of Representatives, the President of the Senate, and the Director of the Fiscal Research Division as soon as practicable after the action is taken. This section does not apply to preparation of the budget."

Sec. 127. If any part of this act shall be declared invalid by any court, this shall not affect any other part of this act.

Sec. 128. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

H.B. 2109

CHAPTER 956

AN ACT TO TRANSFER CERTAIN PROPERTY OF THE JUVENILE EVALUATION CENTER IN BUNCOMBE COUNTY TO THE BUNCOMBE COUNTY BOARD OF EDUCATION TO USE AS PART OF A HIGH SCHOOL CAMPUS.

The General Assembly of North Carolina enacts:

Section 1. The below described lands are transferred by the State of North Carolina to the Buncombe County Board of Education:

BEING all of Tract II as shown on a plat recorded in Plat Book 49, page 123, Buncombe County Registry.

Sec. 2. The transfer made by Section 1 of this act shall be evidenced by a deed executed under G.S. 146-75 and registered in accordance with G.S. 146-77.

Sec. 3. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

S.B. 893

CHAPTER 957

AN ACT TO ELIMINATE NUMBERED SEATS FOR ELECTION OF JUDGES OF THE SUPERIOR COURT TO MEET OBJECTIONS UNDER SECTION 5 OF THE VOTING RIGHTS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-106(d) is amended by deleting “, or two or more vacancies for the office of superior court judge”.

Sec. 2. Notwithstanding the provisions of Article 6A.1 of Chapter 120 of the General Statutes, the Administrative Officer of the Courts shall immediately submit this act to the Attorney General of the United States under Section 5 of the Voting Rights Act of 1965.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

S.B. 878

CHAPTER 958

AN ACT EXTENDING THE DATE BY WHICH CRAVEN COUNTY MAY APPOINT A SPECIAL BOARD OF EQUALIZATION AND REVIEW AND THE DATE BY WHICH THE BOARD MUST COMPLETE ITS WORK.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-322(a) is amended by deleting the words “first Monday in March” and substituting the words “third Monday in June”.

Sec. 2. G.S. 105-322(e) is amended as follows:

(1) by deleting the words “first Monday in May” and substituting the words “third Monday in June”; and

(2) by deleting the date “July 1” and substituting the date “December 31”.

Sec. 3. This act applies only to Craven County and applies only for 1986. All acts taken by the body designated as the Craven County Board of Equalization and Review before the appointment of the Board, by resolution of the Craven County Board of Commissioners under this act, are validated.

Sec. 4. This act is effective upon ratification and applies retroactively to January 1, 1986.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

S.B. 909

CHAPTER 959

AN ACT TO AUTHORIZE THE CITY OF WILSON, THE CITY OF KINGS MOUNTAIN, AND THE CITY OF BESSEMER CITY, TO PURCHASE NATURAL GAS BY USING INFORMAL BID PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S.143-129 is amended by adding the following at the end: "Further, the provisions of this section shall not apply to the purchase of natural gas for consumption or resale, but such purchases shall be subject to G.S. 143-131."

Sec. 2. This act applies to the City of Wilson, the City of Kings Mountain, and the City of Bessemer City only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.B. 86

CHAPTER 960

AN ACT TO AUTHORIZE THE COURT TO EXTEND A PERIOD OF PROBATION TO ALLOW THE DEFENDANT TO COMPLETE PAYMENT OF RESTITUTION OR CONTINUE TREATMENT AND TO CLARIFY PAROLE ELIGIBILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1342 is amended by adding a second paragraph within subsection (a) as follows:

"The court with the consent of the defendant may extend the period of probation beyond five years (i) for the purpose of allowing the defendant to complete a program of restitution, or (ii) to allow the defendant to continue medical or psychiatric treatment ordered as a condition of the probation. The period of extension shall not exceed three years beyond the original period of probation. The special extension authorized herein may be ordered only in the last six months of the probation term."

Sec. 2. G.S. 15A-1371(h) and G.S. 15A-1380.2(h) are each amended by adding the following sentence at the beginning of the last paragraph of the subsections:

"In computing the service requirements of subdivision (4) of this subsection, credit shall be given for good time and gain time credit earned pursuant to G.S. 148-13."

Sec. 3. This act is effective upon ratification and, with respect to Section 1, shall apply to persons placed on probation on or after that date and to persons on probation on that date; with respect to Section 2, shall apply to persons who are prisoners on or after that date.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.B. 952

CHAPTER 961

AN ACT TO AMEND THE STATUTE CONCERNING SPECIAL PLATES FOR AMATEUR RADIO OPERATORS.

*The General Assembly of North Carolina enacts:***Section 1.** G.S. 20-81.1(a) is amended as follows:

(1) by deleting the phrase "and an additional fee as required by G.S. 20-81.3(b) for special personalized licensed plates" and substituting the words "and an additional initial fee of ten dollars (\$10.00)"; and

(2) by adding a new sentence at the end to read: "No additional fee may be required to renew a special plate issued under this section, upon proof of purchase of a portable radio unit by the vehicle owner."

Sec. 2. A new sentence is added to G.S. 20-81.1(b) immediately after the first sentence, to read:

"The special registration plates shall provide for call letters with numerical or letter suffixes so that an owner of more than one vehicle may have the call letters on each."

Sec. 3. G.S. 20-81.1(c) is amended by adding a new sentence at the end to read:

"Special registration plates issued pursuant to this section shall be valid for five years and shall be renewed through the use of annual renewal stickers in the same manner as regular registration plates are renewed."

Sec. 4. G.S. 20-81.1(e) is repealed.**Sec. 5.** This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.B. 1649

CHAPTER 962

AN ACT TO ALLOW HENDERSON COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. (a) **Levy of Tax.** The Board of Commissioners of Henderson County may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

(b) **Scope of Tax.** The county room occupancy and tourism development tax that may be levied under this act shall be three percent (3%) the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place that is located outside the corporate limits of the City of Hendersonville but is otherwise inside the county and is now

subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) educational organizations; and
- (3) summer camps.

(c) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Henderson County. These records shall be available for inspection by Henderson County on request during regular business hours. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The Henderson County Finance Officer shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted by him to the county a discount of two percent (2%) of the amount collected.

(d) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the Henderson County Finance Officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(e) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) and imprisonment not to exceed six months.

(f) Use and Distribution of Tax Revenue. Henderson County shall distribute the net proceeds of the tax on a quarterly basis to the Greater Hendersonville Chamber of Commerce to be used by the Travel and

Tourism Committee in the promotion of travel, tourism, and conventions in the county. The Travel and Tourism Committee shall be advised by the County Tourism Development Committee.

As used in this subsection "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Henderson County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Appointment, Duties of Tourism Development Committee. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating a County Tourism Development Committee, which shall be an advisory committee to the Travel and Tourism Committee of the Chamber of Commerce and shall be composed of the following nine members:

(1) A county commissioner appointed by the board of county commissioners, who shall serve as a voting member;

(2) A member of the Hendersonville City Council appointed by the board of county commissioners, who shall serve as a voting member;

(3) Four owners or operators of hotels, motels, or other taxable tourist accommodations appointed by the board of county commissioners, two of whom own or operate hotels, motels, or other accommodations with more than 50 rental units, and two of whom own or operate hotels, motels, or other accommodations with 50 or fewer rental units; and

(4) Three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate hotels, motels, or other taxable tourist accommodations, recommended as follows: one by the Hendersonville City Council, one by the Greater Hendersonville Chamber of Commerce, and one by the board of county commissioners. Appointments shall be made by the Henderson County Board of Commissioners.

All members of the committee shall serve without compensation. Vacancies in the committee shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

(1) Members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;

(2) Of the members appointed pursuant to subdivision (3) above, two shall serve two-year terms and two shall serve three-year terms, as designated by the board of county commissioners;

(3) Of the three members appointed pursuant to subdivision (4) above, the recommended appointee of the Hendersonville City Council shall serve a one-year term, the recommended appointee of the Greater Hendersonville Chamber of Commerce shall serve a two-year term, and

the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms. The members shall elect a chairman, who shall serve for a term of two years. The committee shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The Finance Officer for Henderson County shall be an ex officio member of the committee.

(b) The Chamber of Commerce may contract with any person, firm or agency to advise and assist it in the promotion of travel, tourism, and conventions. Staff may be employed for this advice and assistance. Staff employed under this act shall be hired and supervised by the Chamber of Commerce, which shall pay the salaries and expenses of this staff.

(c) The Tourism Development Committee shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.B. 1676

CHAPTER 963

AN ACT RELATING TO THE LEASING OF PROPERTY ACQUIRED BY THE TOWN OF TARBORO IN CONNECTION WITH THE EXECUTION OF COMMUNITY DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-272, the Town Council of the Town of Tarboro may, in its discretion, lease to private parties and developers any real property acquired by the Town in connection with the execution of any Community Development Project of the Town for terms of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less. It is the intent hereof that this act shall apply to both real property now owned and real property hereafter acquired by the Town of Tarboro in connection with the execution of Community Development Projects.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.B. 1696

CHAPTER 964

AN ACT TO REQUIRE HAULERS OF TRASH, GARBAGE OR RUBBLE TO COVER THE LOADS.

The General Assembly of North Carolina enacts:

Section 1. A new sentence is inserted after the second paragraph of G.S. 20-116(g) to read: "Trucks, trailers or other vehicles when loaded with trash, garbage, rubble, or other similar substances which could blow, leak, sift or drop shall not be driven or moved on any highway unless the load

is securely covered by a tarpaulin or some other suitable covering, or unless they are constructed so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping therefrom.”

Sec. 2. This act shall apply to Dare County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.B. 2019

CHAPTER 965

AN ACT TO AMEND CHAPTER 661 OF THE 1985 SESSION LAWS TO PROVIDE CHANGES ONLY WITH RESPECT TO PROJECTS WHOLLY SELF-LIQUIDATING.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Section 2 of 1985 Session Laws, Chapter 661, as it relates to The University of North Carolina at Chapel Hill by increasing the amounts authorized for the Security Services Building from eight hundred thirty-six thousand dollars (\$836,000) to one million two hundred seven thousand dollars (\$1,207,000) and Improvements to Kenan Stadium from three million five hundred sixty-three thousand two hundred dollars (\$3,563,200) to five million nine hundred seventy-one thousand two hundred dollars (\$5,971,200), on a wholly self-liquidating basis, and as it relates to the University of North Carolina at Greensboro by increasing the amount authorized for the Student Dining Hall Renovations from four million one hundred fifty thousand dollars (\$4,150,000) to five million fifty thousand dollars (\$5,050,000) on a wholly self-liquidating basis.

Sec. 2. Section 2 of said Chapter 661 of the 1985 Session Laws under the institutional subheading as indicated, and affecting only the projects as listed in this act is amended to read as follows:

- | | |
|-----------------------------------------------------|-------------|
| 5. The University of North Carolina at Chapel Hill. | |
| a. Security Services Building | \$1,207,000 |
| b. Improvements to Kenan Stadium | 5,971,200 |
| 6. The University of North Carolina at Greensboro. | |
| b. Student Dining Hall Renovations | \$5,050,000 |

Section 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

S.B. 249

CHAPTER 966

AN ACT REQUIRING PERSONS WHO REPRESENT THEMSELVES AS CERTIFIED THERAPEUTIC RECREATION SPECIALISTS OR CERTIFIED THERAPEUTIC RECREATION ASSISTANTS TO MEET CERTAIN STANDARDS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter 90C to read:

“Chapter 90C.

“Therapeutic Recreation Personnel Certification Act.

“§ 90C-1. *Short title.*—This Chapter shall be known as the ‘Therapeutic Recreation Personnel Certification Act’.

“§ 90C-2. *Purpose.*—It is the purpose and intent of this Chapter to protect the public from misrepresentation of status by persons who hold themselves out to be ‘certified therapeutic recreation specialists’ or ‘certified therapeutic recreation assistants’.

“§ 90C-3. *General provisions.*—After June 30, 1987, no person shall use the word ‘certified’ with any derivation or combination of the words ‘Therapy’, ‘Recreation’, ‘Therapeutic Recreator’, ‘Recreation Therapist’, ‘Recreational Therapist’, or the initials, ‘TRS’, ‘TR’, ‘TRA’, or other words and/or initials tending to convey the impression that he is certified in the field of therapeutic recreation without first having been certified pursuant to this Chapter. Nor shall he by any verbal claim, advertisement, letterhead, practice, card, or through the use of any other title represent himself or imply that he is certified.

“§ 90C-4. *Definitions.*—In this Chapter, unless the context otherwise requires, the following definitions shall apply:

(a) ‘Board’ shall mean the State Board of Therapeutic Recreation Certification.

(b) ‘Certified Therapeutic Recreation Assistant’ means a person who holds a certificate pursuant to this Chapter as a therapeutic recreation assistant to act under the general supervision of or with consultation from a Certified Therapeutic Recreation Specialist.

(c) ‘Certified Therapeutic Recreation Specialist’ means a person who holds a certificate pursuant to this Chapter as a therapeutic recreation specialist.

(d) ‘Person’ means any individual, corporation, partnership, association, unit of government, or other legal entity.

(e) ‘Scope of Therapeutic Recreation’ includes all direct client services of consultation, research, planning, design, and implementation of specific programs for either individuals or groups that require specific therapeutic recreation education, training, and experience as defined in this Chapter.

(f) ‘Therapeutic Recreation’ is the use of recreation services that improve, develop, and/or maintain physical, psychological, emotional, and/or social behaviors that assist individuals in establishing and expressing an independent lifestyle.

Comprehensive therapeutic recreation services involve a continuum of care, including:

- (1) Therapy which uses recreation services or opportunities designed as treatment;
- (2) Leisure education which provides opportunities for acquisition of leisure skills, attitudes, and values; and/or
- (3) Recreation which provides opportunities for voluntary participation in leisure activities.

Persons certified under this Chapter may practice in clinical, residential or community settings and may:

- (1) Assess and record the client's individual needs, interests, and abilities;
- (2) Design and implement appropriate therapeutic recreation services for the client; and
- (3) Evaluate, record, and report the client's response to the therapeutic recreation services rendered.

"§ 90C-5. *State Board of Therapeutic Recreation Certification created.*—(a) The North Carolina State Board of Therapeutic Recreation Certification is created.

(b) Composition. The Board shall consist of seven members appointed as follows:

- (1) three practicing therapeutic recreation specialists, one each appointed by the Governor, the General Assembly upon the recommendation of the President of the Senate, and the General Assembly upon the recommendation of the Speaker of the House of Representatives;
- (2) one therapeutic recreation specialist who is engaged primarily in providing training for therapeutic recreation specialists or therapeutic recreation assistants and one therapeutic recreation assistant, each appointed by the Governor; and
- (3) two public members, one appointed by the General Assembly upon the recommendation of the President of the Senate and one appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

The Governor shall make his initial appointments after consultation with the North Carolina Recreation and Park Society and other interested persons and thereafter shall make his appointments after consultation with the Board.

(c) Qualifications. The nonpublic members of the Board shall hold a current certificate. Each nonpublic member of the Board, at the time of his appointment and for at least two years before, shall have been actively engaged in North Carolina in the practice of therapeutic recreation, or in the education and training of graduate or undergraduate students of therapeutic recreation, or in therapeutic recreation research. The first nonpublic members of this Board shall immediately become certified by complying with the provisions of this Chapter.

A public member shall not be a licensed health care professional or an agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health

profession. For purposes of this subsection, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall not be eligible to serve as a public member of the Board. The spouse of any person who would be prohibited by this subsection from serving on the Board as a public member shall not serve as a public member of the Board. Public members shall reasonably reflect the population of this State.

(d) Term. Each member shall be appointed for a term of three years and shall serve until a successor is appointed. Of the members initially appointed, one practicing therapeutic recreation specialist appointed by the Governor, and one public member appointed by the General Assembly upon the recommendation of the President of the Senate shall continue in office for one year; one therapeutic recreation specialist appointed by the General Assembly upon the recommendation of the President of the Senate, one therapeutic recreation assistant appointed by the Governor, and one public member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall continue in office for two years; and one therapeutic recreation specialist appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives and one therapeutic recreation specialist engaged primarily in the education of therapeutic recreation specialists or therapeutic recreation assistants appointed by the Governor shall continue in office for three years. The terms of all initial appointments shall commence on June 30, 1987. No member shall serve more than two consecutive full terms.

(e) Vacancies. The Governor shall fill vacancies to the Board positions for which he is the appointing authority within 30 days after a position is vacated. The General Assembly shall fill vacancies for which it is the appointing authority in accordance with G.S. 120-122. Appointees shall serve the remainder of the unexpired term and until their successors have been appointed and qualified.

(f) Removal. The Board may remove any of its members for gross neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from Board business until the charges are resolved. The Governor may also remove any member for gross neglect of duty, incompetence, or unprofessional conduct.

(g) Compensation. Each member of the Board shall receive such per diem compensation and reimbursement for travel and subsistence as shall be set for licensing Board members generally, as provided in G.S. 93B-5.

(h) Officers. The officers of the Board shall be a chairman, a vice-chairman and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(i) Meetings. The Board shall hold at least two meetings each year to conduct business, and shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of the Board members shall constitute a quorum.

(j) Employees. The Board may employ necessary personnel for the performance of its functions, and fix their compensation, within the limits of the funds available to the Board.

(k) The total expense of the administration of this Chapter shall not exceed the total income from fees collected pursuant to this Chapter. None of the expenses of the Board, or the compensation or expenses of any officer or any employee of the Board shall be paid or payable out of the General Fund. Neither the Board nor any of its officers or employees may incur any expense, debt, or other financial obligation binding upon the State.

“§ 90C-6. *Powers of the Board.*—(a) The Board shall have the following general powers and duties:

- (1) To administer this Chapter;
- (2) To issue interpretations of this Chapter;
- (3) To adopt, amend, or repeal rules and regulations in the manner prescribed by Chapter 150B of the General Statutes, as may be necessary to carry out the provisions of this Chapter;
- (4) To establish qualifications of, employ, and set the compensation of the Executive Director who shall not be a member of the Board;
- (5) To employ and fix the compensation of the personnel that the Board determines are necessary to carry out the provisions of this Chapter and to incur other expenses necessary to effectuate this Chapter;
- (6) To determine the qualifications of persons who are certified pursuant to this Chapter;
- (7) To issue, renew, deny, suspend, or revoke certificates and carry out any of the other actions authorized by this Chapter;
- (8) To conduct investigations for the purpose of determining whether violations of this Chapter or grounds for decertifying persons who hold certificates pursuant to this Chapter exist;
- (9) To maintain a record of all proceedings and make available to persons who hold a certificate and other concerned parties an annual report of all Board action;
- (10) To set fees for certification, certificate renewal, and other services deemed necessary to carry out the purpose of this Chapter; and
- (11) To adopt a seal containing the name of the Board to be used on certificates and official reports it issues.

(b) The powers and duties enumerated above are granted for the purpose of enabling the Board to protect the public from misrepresentation of certified status as provided in this Chapter and shall be liberally construed to accomplish this objective.

“§ 90C-7. *Executive Director.*—The Executive Director shall deposit all fees payable to the Board in financial institutions designated by the Board as official depositories. The funds shall be deposited in the name of the Board and shall be used to pay all expenses incurred by the Board in carrying out the purposes of this Chapter. The Board shall be audited annually by the State Auditor.

“§ 90C-8. *The Board may accept contributions, etc.*—The Board may accept grants, contributions, devises, bequests, and gifts that shall be kept

in a separate fund and shall be used by it to publicize the certification program and its protective benefits to the public.

“§ 90C-9. *Requirements for certification.*—(a) An applicant shall be certified upon satisfactorily showing to the Board that he is competent and knowledgeable about the practice of therapeutic recreation as provided by rules and regulations of the Board.

(b) The Board shall certify any person as a ‘therapeutic recreation specialist’ who meets the following education and experience requirements:

- (1) A baccalaureate degree or higher from an accredited college or university with a major in therapeutic recreation or a major in recreation and an option in therapeutic recreation which includes a field placement requirement; or
- (2) A baccalaureate degree or higher from an accredited college or university with a major in recreation and two years of full-time experience in a clinical, residential, or community-based therapeutic recreation program; or
- (3) A baccalaureate degree or higher from an accredited college or university in one of the recreation-related or allied health fields and five years of full-time experience in a clinical, residential, or community-based therapeutic recreation program. Transcripts must show evidence of 18 semester hours or 27 quarter hours of upper division credits in therapeutic recreation/recreation course work and evidence of appropriate support courses; and
- (4) Passing the Board examination for certification in this classification.

For purposes of this section, ‘an option in therapeutic recreation’ shall include:

- (1) A minimum of three courses dealing exclusively with therapeutic recreation content;
- (2) A minimum of three courses dealing exclusively with recreation content;
- (3) Completion of a 360-hour field placement experience in a clinical, residential, or community-based therapeutic recreation program under an agency supervisor who is certified by the Board; and
- (4) Completion of supportive course work to include a minimum of 18 semester or 27 quarter hours from four of these six areas: psychology, sociology, physical/biological science, special education, human services, and/or adapted physical education.

(c) The Board shall certify any person as a ‘therapeutic recreation assistant’ who meets the following education and experience requirements:

- (1) An associate of arts degree from an accredited educational institution with a major in therapeutic recreation or a major in recreation and an option in therapeutic recreation which includes a field placement requirement; or
- (2) An associate of arts degree from an accredited educational institution with a major in recreation and one year of full-time experience in a clinical, residential, or community-based therapeutic recreation program; or
- (3) An associate of arts degree or higher from an accredited educational institution with a major in one of the skill areas (arts,

dance, drama, music, physical education) and one year of full-time experience in a clinical, residential or community-based therapeutic recreation program; or

- (4) Completion of the National Therapeutic Recreation 750-Hour Training Program for therapeutic recreation personnel, with verification by an official certificate of completion; or
- (5) Four years of full-time experience in a clinical, residential, or community-based therapeutic recreation program; and
- (6) Passing the Board examination for certification in this classification.

For purposes of this subsection, 'an option in therapeutic recreation' shall include:

- (1) A minimum of two courses dealing exclusively with therapeutic recreation content;
- (2) A minimum of two courses dealing exclusively with recreation content;
- (3) Completion of a 360-hour field placement experience in a clinical, residential, or community-based therapeutic recreation program under an agency supervisor who is certified by the Board; and
- (4) Completion of supportive course work to include a minimum of 12 semester or 18 quarter hours selected from psychology, sociology, physical/biological sciences, human services, and physical education activity classes.

(d) The Board may certify any person as a 'therapeutic recreation specialist (provisional)' any person who meets the educational requirements of subsection (b) of this section while he is acquiring the experience required for certification or recertification. This certificate may be issued for a period of two years and may not be renewed, except in extraordinary circumstances upon unanimous vote of the Board.

"§ 90C-10. *Certification fees.*—Applications for certification shall be made on forms prescribed and furnished by the Board. The required fee for certification shall not exceed the following:

- (1) Application for certification as a therapeutic recreation specialist: \$50.00
- (2) Application for certification as a therapeutic recreation assistant: \$50.00
- (3) Certificate renewal: \$25.00
- (4) Reinstatement of lapsed or expired certificate: \$25.00
- (5) Replacement certificate: \$10.00

"§ 90C-11. *Certificate renewal.*—Every certificate issued pursuant to this Chapter shall be renewable every two years. On or before the date, the current certificate expires, a person who desires to continue to represent himself as certified in the field of therapeutic recreation shall apply for certificate renewal to the Board on forms furnished by the Board, shall meet criteria for renewal established by the Board, and shall pay the required fee. Failure to renew the certificate within 30 days after the expiration date shall result in automatic forfeiture of any certification issued pursuant to this Chapter.

The Executive Director shall notify in writing every person at his last known address of the expiration of his certificate and the amount that is required for its two-year renewal.

“§ 90C-12. *Reinstatement.*—A person who has allowed his certificate to lapse by failure to renew it as provided may apply for reinstatement on a form provided by the Board. The Board shall require the applicant to return the completed application with the required fee and to furnish a statement of the reason for failure to apply for renewal prior to the deadline. If the certificate has lapsed for five years or more, the Board shall require the applicant to successfully complete a refresher course approved by the Board. If the Board determines that the certificate should be reinstated, it shall issue a certificate renewal to the applicant.

“§ 90C-13. *Inactive list.*—When a person certified by the Board submits a request for inactive status, the Board shall issue to the person a statement of inactive status and shall place the person's name on the inactive status list. While on that list, the person shall not hold himself out as certified pursuant to this Chapter. When that person desires to be removed from the inactive list and returned to an active list, an application shall be submitted to the Board on a form furnished by the Board and the fee shall be paid for certificate renewal. The Board shall require evidence of competency to resume practice before returning the applicant to the active status.

“§ 90C-14. *Revocation, suspension, or denial of certification.*—The Board may require remedial education, issue of a letter of reprimand, restrict, revoke, or suspend any certificate issued pursuant to this Chapter or deny any application for certification if the Board determines that the applicant:

- (1) Has given false information or has withheld material information from the Board in procuring or attempting to procure a certificate pursuant to this Chapter;
- (2) Has been convicted of, or pleaded guilty or *nolo contendere* to, any crime that indicates that the person is unfit or incompetent to be certified pursuant to this Chapter;
- (3) Has a mental or physical disability or uses any drugs to a degree that would endanger the public;
- (4) Engaged in conduct that endangers the public health;
- (5) Is unfit or incompetent to be certified pursuant to this Chapter by reason of deliberate or negligent acts or omissions regardless of whether active injury to the patient is established;
- (6) Engages in conduct that deceives, defrauds, or harms the public in the course of claiming certified status or providing therapeutic recreation services; or
- (7) Has willfully violated any provision of this Chapter or of regulations enacted by the Board.

The Board may reinstate a revoked certificate or remove certificate restrictions when it finds that the reasons for revocation or restriction no longer exist, and that the person can reasonably be expected to safely and properly practice therapeutic recreation.

“§ 90C-15. *Reciprocity.*—The Board may grant a certificate, without examination or by special examination to any person who, at the time of

application, is certified, registered, or licensed as a recreational therapist by a similar board of another country, state, or territory whose certification, registration, or licensing standards are substantially equivalent to those required by this Chapter. The Board shall determine the substantial equivalence upon which reciprocity is based.

“§ 90C-16. *Exemptions.*—Any person working within the scope of therapeutic recreation, as defined in this Chapter, as a ‘Therapeutic Recreation Assistant’ or as a ‘Therapeutic Recreation Specialist’, prior to June 30, 1987, or the date of the final appointment of the initial membership of the Board, whichever occurs later, shall be exempt from all educational examination, and experience requirements for certification in the category in which he or she is working prior to the applicable date. In order to qualify for this exemption, an applicant must apply to the Board for certification before June 30, 1990, or before the expiration of a three-year period that begins with the final appointment of the Board’s initial membership, whichever is later, and he or she must be working within the scope of therapeutic recreation, as defined in this Chapter, at the time of application.

The Board, within 90 days after the final appointment of its initial membership, shall attempt in good faith to notify the following of the availability of this exemption and the deadlines for qualifying and applying for certification under this section:

(1) each therapeutic recreation program conducted by the private sector and by cities, counties, the State of North Carolina, and the federal government;

(2) each individual practitioner working within the scope of therapeutic recreation before the applicable date above.

“§ 90C-17. *Reports; immunity from suit.*—Any person who has reasonable cause to suspect misconduct or incapacity of a person who is certified pursuant to this Chapter, or who has reasonable cause to suspect that any person is in violation of this Chapter, should report the relevant facts to the Board. Upon receipt of a charge or upon its own initiative, the Board may give notice of an administrative hearing pursuant to Chapter 150B of the General Statutes or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from criminal prosecution or civil liability based on that report unless the person knew the report was false or acted in reckless disregard of whether or not the report was false.

“§ 90C-18. *Violations and penalties.*—Any person who violates any provision of this Chapter shall be fined not to exceed five hundred dollars (\$500.00) and/or imprisoned for a term not to exceed 60 days.

“§ 90C-19. *Enjoining the illegal practices.*—(a) If the Board finds that any person is violating any of the provisions of this Chapter, it may apply in its own name to the Superior Court for temporary or permanent restraining order or injunction to prevent that person from continuing the illegal practices. The Court is empowered to grant an injunction regardless of whether criminal prosecution or other action has been or may be instituted as a result of the violation. All actions by the Board shall be governed by the Rules of Civil Procedure.

(b) The venue for actions brought under this Chapter shall be in the county where the defendant resides, or the county where violation occurs.”

Sec. 2. This act shall become effective January 1, 1990.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

S.B. 613

CHAPTER 967

AN ACT TO INCREASE THE PUNISHMENTS FOR VARIOUS OFFENSES INVOLVING ANIMALS, AND TO CREATE NEW OFFENSES INVOLVING ANIMAL FIGHTING AND BAITING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-360, 14-361, and 14-363 are each amended by deleting the phrase “not to exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or both” and substituting the phrase “of up to one thousand dollars (\$1,000) and imprisonment for up to one year”.

Sec. 2. G.S. 14-361.1 is amended by deleting the phrase “two hundred dollars (\$200.00)” and substituting the phrase “five hundred dollars (\$500.00) and imprisonment for up to six months”.

Sec. 3. G.S. 14-362 is rewritten to read:

“§ 14-362. *Cock fighting.*—A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a misdemeanor and is punishable by imprisonment for up to six months and a fine of up to five hundred dollars (\$500.00). A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.”

Sec. 4. G.S. 14-363.1 is amended by deleting the phrase “one hundred dollars (\$100.00)” and substituting the phrase “two hundred dollars (\$200.00)”.

Sec. 5. Article 47 of Chapter 14 of the General Statutes is amended by adding a new section to read:

“§ 14-362.1. *Animal fights, other than cock fights, and animal baiting.*—(a) A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock, is guilty of a misdemeanor and is punishable as provided in G.S. 14-3(a). A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains an animal, other than a cock, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a

misdemeanor and is punishable by imprisonment for up to one year and a fine of up to one thousand dollars (\$1,000).

(c) A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock, is guilty of a misdemeanor and is punishable by imprisonment for up to six months and a fine of up to five hundred dollars (\$500.00).

(d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class J Felony.

(e) This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission."

Sec. 6. This act shall become effective October 1, 1986, and shall apply to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

S.B. 679

CHAPTER 968

AN ACT TO REQUIRE THAT A RECIPIENT OF A CON FOLLOW THE PROJECTIONS OF ITS APPLICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-181 is amended by delineating present G.S. 131E-181 as subsection "(a)" and adding a new subsection "(b)" to read as follows:

"(b) A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need. The Department may by rule require any recipient of a certificate of need, or its successor, whose service is in operation to submit to the Department evidence that the recipient, or its successor, is in material compliance with the representations made in its application for the certificate of need which granted the recipient the right to operate that service. The Secretary is authorized to adopt, amend, and repeal rules to administer this subsection. In determining whether the recipient of a certificate of need, or its successor, is operating a service which materially differs from the representations made in its application for that certificate of need, the court shall consider cost increases to the recipient, or its successor, including, but not limited to, the following:

- (1) any increase in the consumer price index;
- (2) any increased cost incurred because of Government requirements, including federal, State, or any political subdivision thereof; and
- (3) any increase in cost due to professional fees or the purchase of services and supplies."

Sec. 2. G.S. 131E-190 is amended by adding the following subsection:

"(i) If the Department determines that the recipient of a certificate of need, or its successor, is operating a service which materially differs from the representations made in its application for that certificate of need, the

Department may bring action in Wake County Superior Court or the Superior Court of any county in which the certificate of need is to be utilized for injunctive relief, temporary or permanent, requiring the recipient, or its successor, to materially comply with the representations in its application. The Department may also bring action in Wake County Superior Court or the Superior Court of any county in which the certificate of need is to be utilized to enforce the provisions of this act and the regulations adopted in accordance with this act."

Sec. 3. This act is effective upon ratification and applies to all awards made after the ratification date.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

S.B. 948

CHAPTER 969**AN ACT AUTHORIZING SEVERAL OF THE WESTERN COUNTIES
AND DURHAM COUNTY TO LEVY A ROOM OCCUPANCY AND
TOURISM DEVELOPMENT TAX.**

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax. (a) Authorization and Scope. The board of commissioners of a county may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Use of Tax Revenue. Except as provided in Section 2 of this act for Durham County, a taxing county shall place revenue collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this Fund may be used only to promote travel and tourism in the county.

(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Use and Distribution of Tax Revenue in Durham County. Durham County shall retain fifty-seven and one-half percent (57-½%) of the revenue collected from a tax levied under this act and shall distribute the remaining forty-two and one-half percent (42-½%) of the revenue to the City of Durham. Funds retained by the county or distributed to the City of Durham may be used for any purpose authorized by law, except that at least twenty-five percent (25%) of the funds so retained or distributed must be used for promotion of travel and tourism.

Sec. 3. This act applies only to the following counties: Graham, Clay, Jackson, Durham, Macon, Polk, and Transylvania.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 950

CHAPTER 970

AN ACT TO AUTHORIZE HAYWOOD AND HENDERSON COUNTIES TO ADOPT "PRE-DEVELOPMENT ORDINANCES".

Whereas, steep slopes, shallow, fragile soils, and stream valleys with high water tables make some mountainous areas unsuitable or unfeasible for development; and

Whereas, mountain soil and topographic conditions can limit the use of on-site sewage disposal systems and aggravate potential soil erosion and sedimentation problems; and

Whereas, early planning and consultation can help ensure that the limitations of each development site are recognized early in the development process; and

Whereas, lack of proper site planning can jeopardize the economic feasibility of the development plan for the property owner or developer and harm unsuspecting lot purchasers; and

Whereas, not all developers are familiar with the various federal, State, and local laws currently affecting the development and subdivision of land in western North Carolina counties; and

Whereas, counties are capable of providing planning and consultation help to developers and can help inform property owners and developers of the federal, State, and local laws and regulations that may affect the development of their land and help ensure adherence to these requirements; and

Whereas, counties have an interest in the information developers can provide them about their developments; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A county may regulate the subdivision and development of land pursuant to this act by adopting a "pre-development ordinance". The power granted to counties by this act may be exercised in any part or all parts of the county outside a city, except as otherwise provided in G.S. 160A-360, and for purposes of determining each county's territorial jurisdiction, the power shall be treated as if it were a power authorized by Article 19 of Chapter 160A.

Sec. 2. A pre-development ordinance adopted pursuant to this act shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat before its recordation and in granting or denying approval of a site plan for a development, and may provide for one reviewing agency to hear appeals from decisions rendered by another reviewing agency. The ordinance may require that a plat be prepared, approved, and recorded pursuant to its provisions whenever a subdivision of land takes place, and that a site plan be prepared and approved pursuant to its provisions whenever the development of land takes place. No land-disturbing or construction activity carried out in conjunction with a development or subdivision may be commenced nor may a building permit for work done in conjunction with a development or for a lot in a subdivision be issued until required plans or plats have been submitted to and approved by the appropriate review agency or agencies, as provided by the ordinance. No person who

is the owner or agent of the owner of any land subject to this act may (a) engage in the subdivision of land, or (b) sell or transfer or enter into a contract for the sale or transfer of a subdivided lot, or (c) file or record a plat of a subdivision, until the required plat has been submitted to and approved by the appropriate review agency or agencies, as provided by the ordinance, and until this approval is entered in writing on the face of the plat by the county official authorized by the ordinance to do so. The register of deeds may not file or record a plat of a subdivision of land subject to this ordinance that has not been approved in accordance with these provisions, and the clerk of superior court may not order or direct the recording of a plat if the recording would be in conflict with an ordinance adopted under this act.

Sec. 3. The ordinance shall provide that the final required plat or site plan may be approved if and only if the following requirements have been met: (a) the applicant has prepared and submitted to the county any subdivision streets disclosure statement required by G.S. Sec. 136-102.6(f); (b) the county has certified whether or not the land is located on a mountain ridge protected by the Mountain Ridge Protection Act (G.S. 113A-205 et seq.) or any ordinance adopted pursuant to it; (c) the county has approved a soil erosion control plan for the site, if such approval is required by a separate county ordinance, or the North Carolina Department of Natural Resources and Community Development has approved such a plan, if such approval is required by the Sedimentation Pollution Control Act of 1973 (G.S. 113A-50 et seq.), as amended, or regulations adopted pursuant thereto; (d) the district engineer of the Division of Highways of the North Carolina Department of Transportation has certified approval of any proposed street and highway plans, if approval is required pursuant to G.S. 136-102.6(c); (e) if land is to be subdivided and on-site sewage disposal systems involving sub-surface discharge are proposed for lots, the county health department has evaluated under state or county health regulations the general suitability of the entire tract for such systems and/or the suitability of each lot for an individual system serving a single-family residence; (f) if there is proposed in conjunction with the development or subdivision the establishment of, addition to, or change in a public or community sanitary sewage system, or a sanitary sewage system designed to discharge effluent to the land surface or surface waters, the Environmental Management Commission has issued the permit or permits required pursuant to G.S. 143-215.1; (g) if any sewage system proposed for use in conjunction with a development or subdivision is subject to approval by the North Carolina Department of Human Resources pursuant to G.S. 130A, Article 11, under rules adopted by the Commission for Health Services, the Department has approved the plans for such a system; (h) if a dam subject to the Dam Safety Act of 1967 (G.S. 143-215.23 et seq.), as amended, is proposed for use in conjunction with a development or subdivision subject to this act, the Environmental Management Commission has approved the construction plans or the work as completed, as provided by the ordinance; (i) the required plats or site plans are prepared in accordance with ordinance requirements, any applicable requirements adopted by the register of deeds governing the recordation of plats or plans, and the

provisions of G.S. 47-30; (j) if a public water system (as defined in G.S. 130A-313(10)) is proposed to be constructed or altered in conjunction with a development or subdivision and the plans for it are subject to approval pursuant to G.S. 130A-317 by the North Carolina Department of Human Resources (or any certified local government, commission, authority, or board authorized by the Department to grant such approval), the Department (or certified local body) has approved such plans; and (k) the county has found that the applicant's proposal is in compliance with any other federal, state, or local laws specified in the ordinance.

Sec. 4. The following terms where used in this act shall have the following meanings, except where the context clearly indicates a different meaning:

(a) "Development" means (i) the improvement of a tract of land involving land-disturbing activity or (ii) the improvement of a tract of land of five acres or more for any purpose other than agriculture, forestry, or mining; however, development on land owned or managed by the United States of America or the State of North Carolina or its political subdivisions is not included within this definition and is not subject to the provisions of an ordinance adopted pursuant to this act.

(b) "Land-disturbing activity" means land-disturbing activity as defined in G.S. 113A-52(6) that is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered; however, those land-disturbing activities for which the North Carolina Sedimentation Control Commission is authorized to exercise exclusive regulatory jurisdiction pursuant to G.S. 113A-56(a) are not included within this definition and are not subject to any regulations enacted pursuant to this act.

(c) "Review agency" means one or more of the following: the board of county commissioners; the county planning board; the county planner; a technical review committee comprised of those appointed and/or elected county officials designated in the ordinance.

(d) "Subdivision" means all divisions of a tract or parcel of land; however, each of the following is not included within this definition and is not subject to regulation under this act:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased;
- (2) The division of a tract into lots or parcels each of which is greater than 10 acres, if no public road right-of-way dedication is proposed;
- (3) The division of a tract in common ownership the entire area of which is less than five acres;
- (4) The division of land for the purpose of conveying a single lot or parcel to each tenant in common, all of whom jointly inherited the land by intestacy or by will;
- (5) The division of land into no more than two parcels for the purpose of conveying at least one of the resulting lots to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance;

- (6) The public purchase of strips of land for widening or opening roads or highways;
- (7) The division of land pursuant to an order of a court of the General Court of Justice; and
- (8) The division of land for cemetery lots or burial plots.

Sec. 5. Before adopting or amending a pre-development ordinance authorized by this act, the board of county commissioners shall hold a public hearing on it. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. The board of county commissioners shall not hold the public hearing required by this section until the planning board has been given at least 35 days in which to make a recommendation concerning the proposed ordinance or amendment.

Sec. 6. The provisions of G.S. 153A-123 shall apply to the enforcement of an ordinance adopted pursuant to this act.

Sec. 7. This act shall apply only to Haywood and Henderson Counties.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 1692

CHAPTER 971

AN ACT AUTHORIZING NEW HANOVER COUNTY TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, AND TO ADJUST THE DISTRIBUTION OF OCCUPANCY TAX REVENUE IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Part VIII of Chapter 908 of the 1983 Session Laws, as amended by Chapter 987 of the 1983 Session Laws, 1984 Regular Session, and by Chapter 726 of the 1985 Session Laws, is amended as follows:

(1) by adding a new section to read:

“Sec. 36.1. Additional Tax. In addition to the tax authorized by Sections 31 and 32 of this Part, the New Hanover County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under those sections. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with Sections 31 through 36 of this Part. New Hanover County may not levy a tax under this section unless it also levies a tax under Sections 31 and 32 of this Part.”;

(2) by deleting the phrase “Eighty percent (80%)” in Section 35(a)(1) and substituting the phrase “Seventy-five percent (75%)”; and

(3) by deleting the phrase “Twenty percent (20%)” in Section 35(a)(2) and substituting the phrase “Twenty-five percent (25%)”.

Sec. 2. This act is effective upon ratification. Section 2 of this act applies to distributions of revenue collected on or after July 1, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 73

CHAPTER 972

AN ACT TO CREATE THE MOTOR FUEL MARKETING ACT IN ORDER TO ENCOURAGE FAIR AND HONEST COMPETITION AND TO SAFEGUARD THE PUBLIC AGAINST UNFAIR PRACTICES INVOLVING THE SALE OF MOTOR FUEL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 75 of the General Statutes of North Carolina is amended by adding a new Article 3 as follows:

“Article 3.

“Motor Fuel Marketing Act.

“§ 75-80. *Title.*—This act shall be known and may be cited as the ‘Motor Fuel Marketing Act’.

“§ 75-81. *Definitions.*—The following terms shall have the meanings ascribed to them in this section unless otherwise stated and unless the context or subject matter clearly indicates otherwise:

(1) ‘Person’ shall mean any person, firm, association, organization, partnership, business trust, joint stock company, company, corporation or legal entity.

(2) ‘Sale’ shall mean selling, offering for sale or advertising for sale.

(3) ‘Motor Fuel’ shall mean a refined or blended petroleum product used for the propulsion of self-propelled motor vehicles; ‘motor fuel’ shall also include the same meaning as defined by G.S. 105-430(1) and fuel as defined by G.S. 105-449.2(3).

(4) ‘Cost’ or ‘Costs’ shall mean as follows:

(a) For a refiner or terminal supplier, costs shall be presumed to be the refiner’s or terminal supplier’s prevailing price to the wholesale class of trade at the terminal used by the refiner or terminal supplier to obtain the motor fuel in question or the lowest prevailing price within ten days prior to a sale alleged to be in violation of G.S. 75-82 hereof plus all transportation expenses including freight expenses (incurred and not otherwise included in the cost of the motor fuel), and motor fuel taxes. If a refiner or terminal supplier does not regularly sell to the wholesale class of trade at the terminal in question, then such refiner or terminal supplier shall use as the prevailing price either (i) the lowest price to the wholesale class of trade of those other refiners or terminal suppliers at the same terminal who regularly sell to the wholesaler class or (ii) a price determined by using standard functional accounting procedures.

(b) For all other sellers, cost includes the invoice or replacement cost, whichever is less, of the grade, brand or blend, of motor fuel within ten days prior to the date of sale, in the quantity or quantities last purchased, less all rebates and discounts received including prompt payment discounts and plus all applicable State,

federal and local taxes, and transportation expenses including freight expenses, incurred and not otherwise included in the cost of the motor fuel.

(5) 'Prompt Payment Discounts' shall mean any allowance for payment within a specified time, but shall not include discounts for cash made to the motoring public at motor fuel outlets.

(6) 'Affiliate' shall mean any person who (other than by means of a franchise) controls, is controlled by or is under common control with, any other person.

(7) 'Motor Fuel Merchant' is any person selling motor fuel to the public.

(8) 'Motor Fuel Outlet' is any retail facility selling motor fuel to the motoring public.

(9) 'New Retail Outlet' shall mean a new retail facility constructed from the ground or an existing retail facility that is offering motor fuel to the motoring public for the first time.

(10) 'Refiner' shall mean any person engaged in the production or refining of motor fuel, whether such production or refining occurs in this State or elsewhere, and includes any affiliate of such person or firm.

(11) 'Terminal Supplier' shall mean any person engaged in selling or brokering motor fuel to wholesalers or retailers from a storage facility of more than 2,000,000 gallons capacity and such person has an ownership interest in or control of the storage facility.

"§ 75-82. *Unlawful below-cost selling; exceptions.*—(a) It shall be unlawful where the intent is to injure competition for any motor fuel merchant or the affiliate of any motor fuel merchant to sell with such frequency as to indicate a general business practice of selling at a motor fuel outlet any grade, brand or blend of motor fuel for less than the cost of that grade, brand or blend of motor fuel except where (i) the price is established in good faith to meet or compete with the lower price of a competitor in the same market area on the same level of distribution selling the same or comparable product of like quality, (ii) the price remains in effect for no more than 10 days after the first sale of that grade, brand or blend by the merchant at a new retail outlet, (iii) the sale is made in good faith to dispose of a grade, brand or blend of motor fuel for the purpose of discontinuing sales of that product, or (iv) the sale is made pursuant to the order or authority of any court or governmental agency.

(b) For purposes of this act, motor fuel cost shall be computed separately for each grade, brand or blend of each motor fuel at each location where said motor fuel is offered for sale; however, nothing in this subsection shall prevent a motor fuel merchant from using a weighted average motor fuel cost for comparable grade, brand or blend when such motor fuel merchant is supplied by more than one refiner or terminal supplier at one or more terminals.

(c) This act shall apply only to retail sales of motor fuel at motor fuel outlets.

"§ 75-83. *Unlawful inducement; civil penalty.*—It shall be unlawful to knowingly induce, or to knowingly attempt to induce, a violation of this Article, whether by otherwise lawful or unlawful means. In any action

initiated by the Attorney General, anyone found to have violated this provision shall be subject to the civil penalty applicable to the sales made in violation of this Article; or, if no sales were made, to a civil penalty of one thousand dollars (\$1,000).

“§ 75-84. *Separate offenses; injunctions.*—Each act of establishing a price in violation of this Article shall constitute a separate offense by the seller and the civil penalty for each offense shall be not more than one thousand dollars (\$1,000). Upon a proper showing by the Attorney General or his delegate, further violations may be temporarily or permanently enjoined.

“§ 75-85. *Investigations by Attorney General.*—The Attorney General is authorized to investigate any allegation of a violation of this Article made by a motor fuel merchant or by an association or group of motor fuel merchants. If an investigation discloses a violation, the Attorney General may exercise the authority under this Article to seek an injunction and he may also seek civil penalties.

“§ 75-86. *Private actions.*—Any person, corporation, or other business entity which is engaged in the sale of motor fuel for resale or consumption and which is directly or indirectly injured by a violation of this Article may bring an action in the judicial district where the violation is alleged to have occurred to recover actual damages, exemplary damages, costs and reasonable attorneys' fees. The court shall also grant such equitable relief as is proper, including a declaratory judgment and injunctive relief. Any action under this Article must be brought within one year of the alleged violation.

“§ 75-87. *Private action presumptions.*—(a) In any private action brought under this Article, a violation shall be presumed to have occurred if: (i) the prevailing price under G.S. 75-81(4)(a) for any grade, brand or blend of a motor fuel sold by a refiner or terminal supplier to a wholesaler or retailer is greater than the price of the same grade, brand or blend of motor fuel sold by such refiner or terminal supplier directly through its own motor fuel outlet or through the outlet of an affiliate of said refiner or terminal supplier; or (ii) if the product price of any grade, brand or blend of a motor fuel sold by a wholesaler to a retailer is greater than the retail price of the same grade, brand or blend of motor fuel sold by such wholesaler through its own motor fuel outlet or the outlet of an affiliate of said wholesaler, provided the method of delivery and quantities of each delivery of motor fuel to the retailer and to the wholesaler's outlet or affiliate's outlet are the same or comparable.

(b) A party may rebut the presumption created by this section by presenting evidence to establish his cost of the grade, brand or blend of motor fuel in question, or by qualifying for an exception under G.S. 75-82.

“§ 75-88. *Public disclosure.*—Any refiner or terminal supplier computing prevailing price under the provisions of G.S. 75-81(4)(a)(i) or (ii) shall be required to publicly disclose said price.

“§ 75-89. *Powers and remedies supplementary.*—The powers and remedies provided by this act shall be cumulative and supplementary to all powers and remedies otherwise provided by law.”

Sec. 2. This act shall become effective September 1, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 488

CHAPTER 973**AN ACT TO PROVIDE EQUITABLE SALES TAX TREATMENT FOR COMMERCIAL LIVESTOCK AND POULTRY STRUCTURES.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by inserting a new subdivision to read as follows:

“(4.2) Materials used in the construction, repair, or improvement of any enclosure or structure specifically designed, constructed, and used for commercial purposes for housing, raising, or feeding livestock or poultry or for housing equipment necessary for these activities, including work space used solely for these commercial activities.”

Sec. 2. This act shall become effective August 1, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 994

CHAPTER 974**AN ACT TO CREATE THE NORTH CAROLINA GRAPE GROWERS COUNCIL.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

“Article 59.

“Grape Growers Council.

“§ 106-750. *North Carolina Grape Growers Council - creation; powers and duties.*—There is created the North Carolina Grape Growers Council of the Department of Agriculture. The North Carolina Grape Growers Council shall have the following powers and duties:

(1) To identify and implement methods for improving North Carolina's rank as a wine-producing State;

(2) To assure orderly growth and development of North Carolina's grape and wine industry;

(3) To achieve public awareness of the quality of North Carolina grapes and wine;

(4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;

(5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;

(6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;

(7) To receive and disburse funds;

(8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;

(9) To contract for research services to improve viticultural and enological practices in North Carolina;

(10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;

(11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;

(12) To acquire any licenses or permits necessary for performance of the duties of the Council; and

(13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.

“§ 106-751. *North Carolina Grape Growers Council - composition; terms; reimbursement.*—(a) The North Carolina Grape Growers Council shall consist of eleven members appointed by the Commissioner of Agriculture in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The Commissioner shall appoint, within 30 days of the effective date of this act, four members for three-year terms, four members for two-year terms, and three members for one-year terms. Thereafter, members shall be appointed for four-year terms and shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the Commissioner for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of Agriculture.

(d) The Commissioner of Agriculture shall appoint a chairman who shall serve at the pleasure of the Commissioner.

(e) The Council may select a secretary who need not be a member of the Council.

(f) The Council shall meet when necessary as determined by the Chairman or upon written request of a majority of the members.

(g) A majority of the Council shall constitute a quorum for the transaction of business.”

Sec. 2. This act is effective upon ratification, except G.S. 106-751(b) which shall become effective only upon adequate funds being appropriated or otherwise made available for that purpose.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 530

CHAPTER 975

AN ACT TO REMOVE ARCHAIC REFERENCES TO SCHOOL COMMITTEES FROM CHAPTER 115C OF THE GENERAL STATUTES AND CHANGING THE PERCENTAGE OF QUALIFIED VOTERS WHO MAY PETITION FOR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 115C of the General Statutes is amended by changing the title of Article 6 from "School Committees" to "Advisory Councils"; by repealing G.S. 115C-54 and 115C-56 through 115C-59; by rewriting the catch line of G.S. 115C-55 to read "Advisory Councils"; by repealing the first paragraph of G.S. 115C-55 and deleting the word "county" from the first sentence of the existing second paragraph of G.S. 115C-55.

Sec. 2. G.S. 115C-5(d) is rewritten to read:

"(d) The term 'school district' means any district defined by G.S. 115C-69."

Sec. 3. G.S. 115C-47 is amended by adding a new subdivision to read:

"(30) To Appoint Advisory Councils. Local boards of education are authorized to appoint advisory councils as provided in G.S. 115C-55."

Sec. 4. G.S. 115C-288(d) is amended by rewriting the first sentence of the third paragraph to read as follows:

"It shall be the duty of the principal to file two copies of a written report once each month during the regular school session with the superintendent of his local school administrative unit, one copy of which shall be transmitted by the superintendent to the chairman of the local board of education."

Sec. 5. G.S. 115C-299(b) is rewritten to read as follows:

"No person otherwise qualified shall be denied the right to receive credentials from the State Board of Education, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school on the grounds that such person is totally or partially blind; nor shall any local board of education refuse to employ such a person on such grounds."

Sec. 6. G.S. 115C-302(c) is amended by rewriting the first proviso of the second paragraph to read as follows:

"Provided, that a board of education may authorize the superintendent to supplement the salaries of all teachers from local funds, and the minutes of the board shall show what increase is allowed each teacher:"

Sec. 7. G.S. 115C-503 is amended by deleting the second and third paragraphs and substituting:

"A majority of the qualified voters who have resided for the preceding 12 months in an area which is adjacent to a city administrative unit may petition the county board of education for an election on the question of annexing such area to the city administrative unit. For any of the other purposes enumerated in G.S. 115C-501, twenty-five percent (25%) of the

qualified voters who reside in a local school administrative unit may petition the local board of education for an election.”

Sec. 8. G.S. 115C-510 is amended by rewriting the second and third sentences of the second paragraph to read:

“In districts already created or proposed to be created, the petition must be signed by fifteen percent (15%) of the registered voters who reside in the area.”

Sec. 9. G.S. 115C-29(b)(3) is amended by deleting from the second sentence the words “by districts”.

Sec. 10. G.S. 115C-37(g) is amended by deleting from the proviso in the first paragraph the words “or appointed to a district committee by that board of education.”

Sec. 11. G.S. 115C-47(16) is amended by deleting from the catch line the words “or Committeeman” and by deleting from the text the words and figures “or a committeeman” and “115C-59 and”.

Sec. 12. G.S. 115C-69(2) is amended by deleting the word “county” before the words “local board of education.”

Sec. 13. G.S. 115C-73 is amended by deleting from the first proviso the words “or the committee of such tax district, as the case may be”.

Sec. 14. G.S. 115C-84(b) is amended by deleting from the second sentence the words “or district”.

Sec. 15. G.S. 115C-272(b), 115C-285(a), 115C-302(a), and 115C-316(a) are each amended by deleting from the second sentence of each the words “or school district”.

Sec. 16. G.S. 115C-284(e), 115C-295(b), and 115C-315(f) are each amended by deleting from each the words, “or school committee”.

Sec. 17. G.S. 115C-276(g) is amended by deleting from the second sentence the words and punctuation “the school committees,”.

Sec. 18. G.S. 115C-276(j) is amended in the first paragraph by deleting all the words after “It” through and including “without a school committee it”, and by deleting the word “county” before the word “superintendent” and before the word “administrative”.

Sec. 19. G.S. 115C-303(a) is amended by deleting from the second sentence the words “or special taxing district”.

Sec. 20. G.S. 115C-323 is amended by deleting from the first sentence of the first paragraph the words “district principals, building”.

Sec. 21. G.S. 115C-390 is amended by deleting from the second sentence the words “or district committee”.

Sec. 22. G.S. 115C-518(a) is amended by deleting from the sixth sentence the words “district or”.

Sec. 23. G.S. 115C-524(b) is amended by deleting from the second sentence of the first paragraph the word “committeemen,”.

Sec. 24. The following sections or portions of sections are repealed:

G.S. 115C-12(2);

G.S. 115C-40, second paragraph;

G.S. 115C-70;

G.S. 115C-246(d);

G.S. 115C-276(j), second paragraph;

G.S. 115C-302(c), second proviso of second paragraph;

G.S. 115C-461, second paragraph;

G.S. 115C-505, last paragraph; and

G.S. 115C-510, paragraphs 7, 8, and 12.

Sec. 25. The provisions of this act shall not be construed to abolish or in any manner affect any supplemental tax or any local taxing district.

Sec. 26. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 648

CHAPTER 976

AN ACT TO AMEND G.S. 6-21.1 TO RAISE THE JUDGMENT LIMIT TO TEN THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 6-21.1 is amended by deleting "five thousand dollars (\$5,000)" and substituting "ten thousand dollars (\$10,000)".

Sec. 2. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 1007

CHAPTER 977

AN ACT TO MODIFY THE QUALIFICATIONS FOR A LAND SURVEYOR APPLICANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-13(a)(1) is amended by deleting the period and substituting "(shall meet one):".

Sec. 2. G.S. 89C-13(a)(2) is amended by deleting the period and substituting "(shall meet one):".

Sec. 3. G.S. 89C-13(b)(1) is amended by deleting the period and substituting "(shall meet one):".

Sec. 4. G.S. 89C-13(b)(1)b. is amended by rewriting that subdivision to read as follows:

"Rightful possession of an associate degree in surveying technology approved by the Board and a record satisfactory to the Board of three years of progressive practical experience, two years of which shall have been under a practicing registered land surveyor, and satisfactorily passing such written and oral examination taken in the presence of and as required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may elect to take the first examination (Surveying Fundamentals) immediately after obtaining the associate degree at the first regularly scheduled examination thereafter. Upon passing the first examination and successfully completing two years of progressive practical experience under a practicing registered land surveyor, the applicant may elect to take the second examination (Principles and Practices of Land Surveying) prior to, during, or after completion of the additional experience required by this subdivision. An applicant who passes both examinations and

successfully completes the educational and experience requirements of this subdivision shall be granted registration as a land surveyor."

Sec. 5. G.S. 89C-13(b)(1)a. is amended by adding the following sentence at the end thereof: "The applicant may elect to take the first examination (Surveying Fundamentals) immediately after obtaining the B.S. degree at the first regularly scheduled examination thereafter. Upon passing the first examination and successful completion of the experience required by this subdivision, the applicant may take the second examination (Principles and Practices of Land Surveying). An applicant who passes both examinations and completes the educational and experience requirements of this subdivision shall be granted registration as a land surveyor."

Sec. 6. G.S. 89C-13(b)(1)d. is amended by deleting the word "six" and substituting the word "seven" and by deleting the word "four" and substituting the word "six".

Sec. 7. G.S. 89C-13(b)(1)e. is repealed.

Sec. 8. G.S. 89C-13(b)(1)f. is amended by deleting "event" and substituting "event,".

Sec. 9. G.S. 89C-13(b)(1)g. is amended by adding immediately after the phrase "principles and practices of land surveying" the phrase "and the two four-hour examinations on the fundamentals of land surveying".

Sec. 10. G.S. 89C-13(b)(1) is amended by adding a new sentence at the end, after the qualifications a. through h., to read:

"The Board shall require an applicant to submit exhibits, drawings, plats or other tangible evidence of land surveying work executed by him under proper supervision and which he has personally accomplished or supervised."

Sec. 11. G.S. 89C-13(b)(2) is amended by adding immediately before the colon the words "(shall meet one)".

Sec. 12. G.S. 89C-13(b)(2)a. is rewritten to read:

"a. Rightful possession of an associate degree in surveying technology approved by the Board and satisfactorily passing a written or oral examination taken in the presence of and as required by the Board."

Sec. 13. G.S. 89C-13(b)(2)b. is amended by:

- (a) deleting "surveying," and substituting "surveying";
- (b) deleting "examination" and substituting "examinations".

Sec. 14. G.S. 89C-13(b)(2)c. is rewritten to read:

"c. Graduation from high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of five years of progressive, practical experience, four years of which shall have been under a practicing registered land surveyor and satisfactorily passing oral and written examinations taken in the presence of and as required by the Board."

Sec. 15. G.S. 89C-13(b)(2) is amended by adding a new sentence at the end, after the qualifications a. through c., to read:

"The Board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by him under proper supervision and which he has personally accomplished or supervised."

Sec. 16. G.S. 89C-10(g) is amended by adding a new sentence between the second and third sentences of that subsection as follows: "The Board shall make every effort practical to encourage the educational institutions in this State to offer courses necessary to complete the educational requirements of this Chapter."

Sec. 17. This act shall become effective October 1, 1986, and shall apply to those candidates sitting for the land surveyors examinations after September 1, 1992. The changes made by this act shall not apply to persons currently holding land surveyor certificates on the effective date of this act.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 1690

CHAPTER 978

AN ACT TO PERMIT TOWNS IN DARE COUNTY TO ENACT CERTAIN FIRE PREVENTION ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Sections 1 and 2 of Chapter 389 of the 1985 Session Laws are rewritten to read:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'§ 160A-183.1. *Regulation of flammable buildings*—A city may by ordinance restrict, regulate, or prohibit the construction of buildings and structures to ensure that they are not or will not constitute fire hazards; however, the ordinance may not conflict with or exceed the provisions of the North Carolina State Building Code as adopted under G.S. 143-138.'

Sec. 2. This act applies to all incorporated towns in Dare County only."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 1610

CHAPTER 979

AN ACT RELATING TO SATELLITE CORPORATE LIMITS OF THE TOWN OF CANTON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(5) is amended by deleting "ten percent (10%)" and substituting "seventy-five percent (75%)".

Sec. 2. This act applies to the Town of Canton, Haywood County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 897

CHAPTER 980

AN ACT TO AMEND THE LAW PROVIDING A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF WHITEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 3078 of the 1971 Session Laws is rewritten to read:

“Sec. 4. *Volunteer fireman normal retirement benefits.*—(a) A monthly supplemental retirement benefit after reaching the age of 55 and with 20 years of service shall be paid from the Supplemental Retirement Fund in an amount equal to seventy-five dollars (\$75.00).

(b) Full-time paid fireman normal retirement benefits. A monthly supplemental retirement benefit after reaching the age of 55 years and with 20 years of service shall be paid from the Supplemental Retirement Fund in an amount of ten percent (10%) of his monthly salary at the time immediately preceding his/her retirement, but in no case shall this amount exceed one hundred fifty dollars (\$150.00).

(c) Combination full-time paid and volunteer service. A member can have his full-time and volunteer service time combined to equal 20 years of service and shall be paid from the Supplemental Retirement Fund on a prorated basis as decided by the Board of Trustees.

(d) Any member who has been a member of a rated fire department with a Local Relief Fund and has transferred to the Whiteville Fire Department, the said member's time transfers also to the Whiteville Local Relief Fund after he has served five years, giving him all the rights, privileges, as other members of the Whiteville Fire Department.”

Sec. 2. Section 5 of Chapter 308 of the 1971 Session Laws is rewritten to read:

“Sec. 5. All the payments made to the retirees will come from the interest accumulated from the money invested. The principal shall never be used for payment to retirees. The board of trustees shall have the authority to make any adjustments in payments to retirees if interest is not sufficient to make retiree payments.”

Sec. 3. Section 6 of Chapter 308 of the 1971 Session Laws is rewritten to read:

“Sec. 6. *Disability Benefit.*—Any firemen of the Whiteville Fire Department injured in the line of duty shall be entitled to receive monthly compensation from the Supplemental Retirement Fund. Compensation shall be on a prorated basis on number of years of service as determined by the Board of Trustees of the Supplemental Retirement Fund.”

Sec. 4. None of the provisions of this act shall create a liability for the Whiteville Firemen's Supplemental Retirement Fund unless sufficient current assets are available to pay fully for the liability.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 1286

CHAPTER 981

AN ACT TO PROVIDE FOR SEVERANCE PAY OR DISCONTINUED SERVICE RETIREMENT FOR EMPLOYEES WHO ARE SEPARATED DUE TO A REDUCTION IN FORCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-27.2 is amended in the first paragraph by deleting the first sentence and inserting in its place the following two sentences:

"When the Director of the Budget determines that the closing of a State institution or a reduction in force will accomplish economies in the State Budget, he shall pay either a discontinued service retirement allowance or severance wages to any affected State employee, provided reemployment is not available. In determining whether to pay a discontinued service retirement allowance or severance wages, the Director of the Budget shall consider the recommendation of the department head involved and any recommendation of the State Personnel Director."; and by adding a new sentence at the end of the paragraph to read: "Severance wages shall be paid according to the policies adopted by the State Personnel Commission."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 866

CHAPTER 982

AN ACT TO PROVIDE ROADS TO THE FUTURE, AND TO CLASSIFY HOUSEHOLD PERSONAL PROPERTY AND EXCLUDE IT FROM PROPERTY TAXES.

CONTENTS

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- V. TWO-YEAR MOTOR VEHICLE REGISTRATION
- VI. TRANSFER DRIVER EDUCATION TO GENERAL FUND
- VII. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

The General Assembly of North Carolina enacts:

—PART I. POWELL BILL/SECONDARY ROADS FUND INCREASE

Section 1. G.S. 136-41.1(a) is amended by deleting the phrase "one and three-eighths cents (1 $\frac{3}{8}\text{¢}$)" and substituting the phrase "one and three-fourths cents (1 $\frac{3}{4}\text{¢}$)".

—PART II. DEPARTMENT OF TRANSPORTATION SALES TAX EXEMPTION

Sec. 2. G.S. 105-164.13 is amended by adding a new subdivision to read:

“(40) Sales to the Department of Transportation.

—PART III. MOTOR FUEL TAX INCREASE

Sec. 3. G.S. 105-434 is rewritten to read:

“§ 105-434. *Excise tax on motor fuel; payment of tax.*—(a) Tax. An excise tax is levied on motor fuel sold, distributed, or used by a distributor within this State at the rate of fourteen cents (14¢) per gallon plus three percent (3%) of the average wholesale price of motor fuel, as determined semiannually by the Secretary of Revenue from information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the United States Department of Energy in the ‘Monthly Energy Review,’ or on equivalent data. The Secretary shall determine the average wholesale price of motor fuel by computing the average sales price of finished motor gasoline for the base period, computing the average sales price for No. 2 diesel fuel for the base period, and then computing a weighted average of the results of the first two computations based on the proportion of tax collected under this Article on motor fuel and Article 36A on fuel for the base period. The Secretary shall notify affected taxpayers of the tax rate to be in effect for each six-month period.

To facilitate collection of the motor fuel tax, the Secretary shall convert the percentage rate to a cents-per-gallon rate to be in effect during the six-month period beginning each January 1 and July 1. The rate to be in effect during the six-month period beginning January 1 shall be computed from data published for the six-month base period ending on the preceding September 30, and the rate to be in effect during the six-month period beginning July 1 shall be computed from data published for the six-month base period ending on the preceding March 31. The cents-per-gallon rate computed by the Secretary shall be rounded to the nearest one-tenth of a cent (1/10¢). If the cents-per-gallon rate computed by the Secretary is exactly between two tenths of a cent, the rate shall be rounded up to the higher of the two.

(b) Payment. The tax levied under this Article is due when a return is required to be filed. Each distributor shall, within 20 days after the end of each month, submit a return to the Secretary of Revenue, on a form prescribed by the Secretary, stating the quantity of motor fuel sold, distributed, or used by him within the State during the preceding calendar month. Each return shall be accompanied by a payment to the Secretary for the amount of tax shown to be due on the return and shall be signed by the distributor or his agent.

In reporting the amount of tax due, a distributor may elect to calculate the tax on adjusted monthly receipts less a tare of two percent (2%) on the first 150,000 gallons, one and one-half percent (1½%) on the next 100,000 gallons, and one percent (1%) on the excess over 250,000 gallons. ‘Adjusted monthly receipts’ means the quantity of motor fuel purchased, produced, refined, or compounded during the month plus the quantity of untaxed motor fuel on hand at the beginning of the month and less the quantity of motor fuel transported out-of-state during the month or lost during the month due to damage to a conveyance transporting the motor fuel, fire, a natural disaster, an act of war, or an accident. The Secretary of Revenue may, in accordance with rules adopted by him, refund to a

nonlicensed distributor the tax on motor fuel that is purchased and delivered to him taxpaid and that is lost due to fire, a natural disaster, an act of war, or an accident after it is delivered to him and before it is sold.

(c) Exception. The tax levied by subsection (a) does not apply to nonanhydrous ethanol that is not sold or distributed.

(d) Local Tax Prohibited. No county, city, town, or other political subdivision of the State may levy or collect any tax upon the sale, distribution, or use of motor fuel."

Sec. 4. G.S. 105-435(a) is amended by deleting the phrase "of twelve cents (12¢) per gallon" and substituting the phrase "at the rate established pursuant to G.S. 105-434(a)".

Sec. 5. G.S. 105-446 is rewritten to read:

"§ 105-446. *Refund of motor fuel used other than to propel a motor vehicle.*—A person who purchases and uses motor fuel for a purpose other than to operate a licensed motor vehicle may receive an annual refund, for the tax paid during the preceding calendar year, at a rate equal to fourteen cents (14¢) per gallon plus the average of the two wholesale cents-per-gallon rates of tax in effect during the year for which refund is claimed, less one cent (1¢) per gallon. An application for a refund allowed under this section shall be made in accordance with G.S. 105-440."

Sec. 6. G.S. 105-440 is rewritten to read:

"§ 105-440. *Applications for and administration of tax refunds; penalty.*—(a) Annual Refunds. An application for an annual refund of tax permitted by this Article shall be filed with the Secretary of Revenue on or before April 15th following the end of the calendar year for which the refund is claimed. The application shall state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year, and shall state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction.

(b) Quarterly Refunds. An application for a quarterly refund of tax permitted by this Article shall be filed with the Secretary of Revenue on or before the last day of the month following the end of the calendar quarter for which the refund is claimed. The application shall state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction.

(c) Late Applications. Applications filed with the Secretary within six months of the date the application is due shall be accepted, but the amount of the refund shall be reduced by twenty-five percent (25%) if the application is filed within 30 days after the date the application is due, and shall be reduced by fifty percent (50%) if the application is filed more than 30 days but within six months after the date the application is due. An application filed more than six months after the date the application is due shall not be accepted.

(d) Approval of Refund. If the Secretary of Revenue determines that an application for refund is correct, he shall issue the applicant a warrant upon the State Treasurer for the amount of the refund. If the Secretary determines that an application for refund is incorrect, he shall send a written notice of his determination to the applicant, stating a time and

place for a hearing. If, upon holding the hearing, the Secretary finds the applicant has collected or sought to collect a refund to which he is not entitled, he shall reject the application and the applicant shall be required to pay back the tax, if any, refunded to him on the basis of the rejected application. The applicant may seek review of the Secretary's decision under G.S. 105-241.2, 105-241.3, and 105-241.4.

(e) Penalty. A person who knowingly makes a false application for refund to obtain a refund to which he is not entitled is guilty of a misdemeanor and is punishable by a fine of up to five hundred dollars (\$500.00), imprisonment for up to two years, or both."

Sec. 7. G.S. 105-446.1 is amended as follows:

(1) by deleting the phrase "be reimbursed at the rate of eleven cents (11¢) per gallon of" in the first sentence of that section and substituting the words "reimbursement for"; and

(2) by deleting the last two sentences of that section and substituting the following sentences to read:

"Reimbursement shall be at a rate equal to fourteen cents (14¢) per gallon plus the wholesale cents-per-gallon rate of tax in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. An application for a refund under this section shall be made in accordance with G.S. 105-440."

Sec. 8. G.S. 105-446.3 is amended as follows:

(1) by deleting the phrase "be reimbursed at the rate of eleven cents (11¢) per gallon of" in the first sentence of subsection (a) of that section and substituting the words "reimbursement for the";

(2) by deleting the last two sentences of subsection (a) and substituting the following sentences to read:

"Reimbursement shall be at a rate equal to fourteen cents (14¢) per gallon plus the wholesale cents-per-gallon rate of tax in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. An application for a refund allowed under this section shall be made in accordance with G.S. 105-440."; and

(4) by deleting subsections (c), (d), (e), (f), (g), and (h) of that section.

Sec. 9. G.S. 105-446.5 is amended as follows:

(1) by deleting the phrase "of thirty-three and one-third percent (33 ⅓ %) of eleven cents (11¢) per gallon of the tax levied under this Article" in subsection (a) of that section;

(2) by adding two new sentences after subdivision (4) of subsection (a) of that section to read: "The refund rate shall be computed by subtracting one cent (1¢) from fourteen cents (14¢) per gallon plus the average of the two wholesale cents-per-gallon rates of tax in effect during the year for which the refund is claimed, and multiplying the difference by thirty-three and one-third percent (33 ⅓ %). An application for a refund allowed under this section shall be made in accordance with G.S. 105-440."; and

(3) by deleting subsections (b) and (c) of that section.

Sec. 10. G.S. 105-446.6 is amended in the first sentence of that section by deleting the phrase "the rate of eleven cents (11¢) per gallon for the amount of tax paid" and substituting the phrase "a rate equal to

fourteen cents (14¢) per gallon plus the wholesale cents-per-gallon rate of tax paid on the fuel, less one cent (1¢) per gallon”.

Sec. 11. G.S. 105-449 is amended as follows:

(1) by rewriting subsections (a) and (b) of that section to read:

“(a) Motor fuel purchased by a local board of education for use in public school transportation in this State is exempt from the excise tax levied by this Article provided an invoice for the fuel stating the board of education to whom the fuel was delivered, the price per gallon of the fuel excluding the tax, and the kind and quantity of fuel sold is furnished to the Secretary of Revenue. To implement this exemption, a person who holds a State contract for the sale of motor fuel to be used in public school transportation shall invoice motor fuel sold to a local board of education for this purpose at the prevailing contract price, excluding the tax, and a person who does not hold a State contract for the sale of motor fuel to be used in public school transportation but who sells motor fuel for this purpose in quantities not sufficient to require a State contract shall invoice motor fuel sold to a local board of education at the lowest informal bid price, excluding the tax.

(b) A person authorized to sell motor fuel to a local board of education who paid the tax levied by this Article on fuel sold to the local board for public school transportation may obtain a refund of the tax paid on the fuel upon filing an application for refund with the Secretary of Revenue and attaching an invoice, containing the information required in subsection (a), to the refund application. Upon receipt of a proper application and invoice, the Secretary shall issue a warrant upon the State Treasurer for the amount of tax paid.”;

(2) by deleting the phrase “twelve cents (12¢) gasoline tax now imposed by the State” in subsection (c) of that section and substituting the phrase “tax levied by this Article”; and

(3) by deleting the word “gasoline” each time it appears in subsections (c) and (d) of that section and substituting the words “motor fuel”.

Sec. 12. G.S. 105-449.16(a) is amended as follows:

(1) by deleting from the first sentence of that subsection the phrase “of twelve cents (12¢) per gallon” and substituting the phrase “established pursuant to G.S. 105-434”;

(2) by deleting the phrase “twelve cents (12¢) per gallon tax, hereinabove provided for,” in the last sentence of that subsection and substituting the phrase “tax levied in this section”; and

(3) by deleting from the last sentence of that subsection the phrase “out of every said twelve cents (12¢) tax per gallon” and substituting the phrase “of the amount of tax levied on each gallon”.

Sec. 13. G.S. 105-449.19 is amended in the first sentence by deleting the phrase “twelve cents (12¢) per gallon”.

Sec. 14. G.S. 105-449.24 is rewritten to read:

“§ 105-449.24. *Exemptions and refunds.*—The exemptions from and the refunds of the tax levied by Article 36 on motor fuel apply to the tax levied by this Article on fuel, except the exemption and refund for losses in G.S. 105-434(a).”

Sec. 15. G.S. 105-449.30 and G.S. 105-449.31 are repealed.

Sec. 16. G.S. 105-449.38 is amended by rewriting the second sentence of that section to read:

“The tax shall be at the rate established by the Secretary pursuant to G.S. 105-434.”

Sec. 17. G.S. 105-449.39 is amended by deleting the first two sentences of that section and substituting the following sentence to read:

“Every motor carrier subject to the tax levied by this Article is entitled to a credit against this tax for the amount of tax paid by the carrier under Articles 36 and 36A of this Subchapter on motor fuel or special fuel purchased in this State and used by the carrier in its operations either inside or outside this State.”

—PART IV. HOUSEHOLD PERSONAL PROPERTY TAX EXCLUSION

Sec. 18. G.S. 105-275(16) is rewritten to read:

“(16) Household personal property. As used in this subdivision, the term ‘household personal property’ means personal property that is used by the owner of the property for a purpose other than the production of income and is not used in connection with a business. The term includes household furnishings, clothing, pets, lawn tools, and lawn equipment. The term does not include motor vehicles, mobile homes, boats, or airplanes.”

Sec. 19. G.S. 105-277.1(a) is rewritten to read:

“(a) The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation as follows. The first twelve thousand dollars (\$12,000) in assessed value of real property, or a mobile home, owned by a North Carolina resident and occupied by the owner as his permanent residence shall not be assessed for taxation if, as of January 1 of the year for which the benefit of this section is claimed:

- (1) The owner is either 65 years of age or older or is totally and permanently disabled; and
- (2) The owner’s disposable income for the preceding calendar year did not exceed eleven thousand dollars (\$11,000); and
- (3) The owner makes the required application.

For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is in both names.”

Sec. 20. G.S. 105-277.1(b)(2a) is repealed.

Sec. 21. G.S. 105-278.9 is repealed.

Sec. 22. G.S. 105-282.1(a)(2) is rewritten to read as follows:

“(2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), or (31), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion of that property.”

Sec. 23. The second sentence of the second paragraph of G.S. 105-309(f) is rewritten to read:

“The exclusion covers real property, or a mobile home, occupied by the owner as his permanent residence.”

—PART V. TWO-YEAR MOTOR VEHICLE REGISTRATION

Sec. 24. G.S. 20-66(d) is rewritten to read:

“(d) The Division may also provide for the issuance of license plates for motor vehicles with the dates of expiration thereof to vary from month to month so as to approximately equalize the number that expire during a registration period of one or two years. A person may purchase a license plate for a period of two years, but the Division shall not solicit, encourage, or require the purchase of a license plate for a period of more than one year.”

—PART VI. TRANSFER DRIVER EDUCATION TO GENERAL FUND

Sec. 25. G.S. 20-88.1 is amended by adding a new subsection to read:

“(c) All expenses incurred by the State in carrying out the provisions of this section shall be paid out of the General Fund.”

—PART VII. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

Sec. 26. Notwithstanding G.S. 105-434 and G.S. 105-449.16, the percentage wholesale component of the excise tax levied under those sections shall be one and one-half cents (1 ½¢) from July 15, 1986, to January 1, 1987. The 1987 Session of the General Assembly will examine the question of having a different computation of the wholesale tax for motor fuel and special fuel.

Sec. 27. July 15, 1986, Inventory of Motor Fuel. Every distributor of motor fuel, both at wholesale and at retail, shall inventory all motor fuel on hand or in his possession as of 12:01 a.m., July 15, 1986, and, on or before August 15, 1986, shall report to the Secretary of Revenue the amount of the motor fuel. When filing the report, the distributor shall remit to the Secretary of Revenue an additional tax on the motor fuel of three and one-half cents (3 ½¢) per gallon. The report required shall be in a form prescribed by the Secretary.”

Sec. 28. July 15, 1986, Inventory of Special Fuels. Every supplier or reseller of special fuels shall inventory all special fuels on hand or in his possession as of 12:01 a.m., July 15, 1986, and, on or before August 15, 1986, shall report to the Secretary of Revenue the amount of the fuels. When filing the report, the supplier or reseller shall remit to the Secretary of Revenue an additional tax of three and one-half cents (3 ½¢) per gallon. The report required shall be in a form prescribed by the Secretary.

Sec. 29. Notwithstanding G.S. 105-446, G.S. 105-446.5, and G.S. 105-449.24, the annual refund rate for tax paid on motor fuel or special fuels for calendar year 1986 shall be twelve and six-tenths cents (12 6/10¢) per gallon.

Sec. 30. Notwithstanding G.S. 105-446.1, G.S. 105-446.3, and G.S. 105-449.24, the quarterly refund rate for tax paid on motor fuel or special fuels for the quarter ending June 30, 1986, shall be eleven cents (11¢) per gallon, and the quarterly refund rate for tax paid on motor fuel or special fuels for the quarter ending September 30, 1986, shall be fourteen cents (14¢) per gallon.

Sec. 31. Notwithstanding G.S. 105-434 and G.S. 105-449.19, distributors of motor fuel and suppliers of special fuels shall file a report in accordance with those sections for the period July 1, 1986, through July 14, 1986, and a report for the period July 15, 1986, through July 31, 1986. Each report by a distributor of motor fuel shall be considered separately in applying the tare allowance under G.S. 105-434.

Sec. 32. Notwithstanding G.S. 105-449.45, a motor carrier shall file a report in accordance with that section for the period July 1, 1986, through July 14, 1986, and a report for the period July 15, 1986, through September 30, 1986. Notwithstanding G.S. 105-449.38 and G.S. 105-449.39, a motor carrier may elect to file a single report for the quarter ending September 30, 1986, reporting fuel use at the rate of fifteen cents (15¢) per gallon and claiming credit for fuel purchased at the rate of fifteen cents (15¢) per gallon.

Sec. 33. Part I of this act is effective upon ratification and applies to distributions made under G.S. 136-41.1 after October 1, 1986. Part II shall become effective August 1, 1986. Part III shall become effective July 15, 1986. Part IV shall become effective for taxable years beginning on or after January 1, 1987. Part V is effective upon ratification. Part VI shall become effective July 1, 1987. Part VII is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 903

CHAPTER 983

AN ACT TO EXEMPT SMALL PARTNERSHIPS FROM PENALTIES FOR FAILURE TO FILE INFORMATIONAL RETURNS WHEN SUCH PARTNERSHIPS QUALIFY FOR A FEDERAL EXEMPTION FROM SUCH PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-236(10)a. is amended by adding the following at the end: "No tax may be assessed against the delinquent when it is a partnership as defined under Section 6231(a)(1)(B) of the Code and no penalty could be assessed as provided by Rev. Proc. 84-35, except that for the purpose of Section 3.01 of that procedure 'the Department of Revenue' is substituted for 'the Internal Revenue Service'."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 2137

CHAPTER 984

AN ACT TO ALLOW THE TOWN OF SALUDA TO DISPOSE OF TWO FIRE TRUCKS AT PRIVATE NEGOTIATION AND SALE TO SALUDA VOLUNTEER FIRE AND RESCUE, INC.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-266(b), the Town of Saluda may at private negotiation and sale convey, with or without monetary consideration, all its right, title, and interest to two fire trucks to Saluda Volunteer Fire and Rescue, Inc.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 901

CHAPTER 985

AN ACT MAKING CLARIFYING AMENDMENTS TO THE PRIVILEGE
LICENSE TAX STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-89(a) is amended as follows:

(1) by changing the colon following the word “follows” in subdivision (1) to a period and adding the following sentence immediately after that period to read:

“The tax shall be the greater of the amount equal to five dollars (\$5.00) multiplied by the number of motor fuel pumps, if any, operated at the location for which the license is sought and the applicable amount in the table below based on population.”;

(2) by adding a new sentence at the end of subdivision (1) to read:

“In computing the tax, the number of motor fuel pumps operated at a location is considered the number of dispensing nozzles at the location from which motor fuel can be dispensed simultaneously.”; and

(3) by deleting subdivisions (2) and (3) of that subsection and renumbering the succeeding subdivisions accordingly.

Sec. 2. G.S. 105-89(c)(2) is amended by adding a new sentence at the end of that subdivision to read:

“A person, firm, or corporation licensed under this subsection is not required to be licensed under subsections (a) or (b) of this section.”

Sec. 3. G.S. 105-99 is amended by adding a new sentence at the end of the first paragraph of that section to read:

“In computing the tax, the number of pumps owned or leased by a distributor or wholesaler is considered the number of dispensing nozzles from which motor fuel can be dispensed simultaneously.”

Sec. 4. G.S. 105-102.3 is amended in the first sentence of that section by inserting between the words “savings bank” and the comma following those words the phrase “created other than under Chapter 54B of the General Statutes or the Home Owners’ Loan Act of 1933 (12 U.S.C. §§ 1461-68)”.

Sec. 5. Section 1 of this act is effective upon ratification and applies to licenses issued on or after July 1, 1986. The remainder of this act is effective upon ratification. This act does not affect pending litigation.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 892

CHAPTER 986

AN ACT TO MAKE PROVISIONS FOR FILLING UNEXPIRED TERMS FOR SUPERIOR COURT JUDGE IN THE SAME YEAR AS FULL TERMS, BY CONSIDERING UNEXPIRED TERMS AS SEPARATE OFFICES FOR THE PURPOSE OF APPLYING A DESIGNATED SEAT RULE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new section to read:

“§ 163-156. *Rules when two or more vacancies for superior court judge of different term length are to be voted on in the same year, or where two or more elections for less than a full term are to be voted on in the same year.*—(a) The General Assembly finds that:

- (1) The provisions of law requiring candidates for superior court judge to designate the vacancy they are seeking are unenforceable under Section 5 of the Voting Rights Act of 1965;
- (2) In some judicial districts, where such staggered terms have been approved under Section 5 of the Voting Rights Act, not all the terms of the superior court judges expire at the same time, and the provisions of Article IV, Section 19 of the North Carolina Constitution dealing with filling of unexpired terms in an election could result in an election being held simultaneously in a judicial district for one or more full eight-year terms, and one or more unexpired terms of two, four, or six years.
- (3) The senior resident superior court judge is given additional responsibilities by North Carolina law, and applying a rule whereby a full term and an unexpired term are voted on at the same time without designation as to vacancy could result in a senior judge running for reelection for a full eight-year term instead being elected to a two-year unexpired term merely because that judge finished second in statewide voting for two seats, which would be disruptive of the process of retaining career judges;
- (4) Article IV, Section 19 of the North Carolina Constitution requires that vacancies in superior court judgeships occurring as late as 31 days before the general election be filled for the remainder of the unexpired term, which is long after the main part of the judicial ballot has been printed, and while absentee voting is already going on. In the past, when an unexpired term has occurred soon before the election, a supplemental ballot has been issued for use along with the regular judicial ballot. If the State were required to conduct elections for last-minute unexpired terms without designation as to vacancy with the already scheduled full terms, it would require scrapping ballots already printed and would greatly disrupt the election process.

(b) When there is an election in a judicial district for one or more offices of superior court judge for full terms, and there is also to be an election for one or more unexpired terms in the same district at that same

election in accordance with Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the unexpired term occurs prior to the tenth day before the filing period ends under G.S. 163-106(c), nominations shall be made by primary election as provided by Article 10 of this Chapter, with designation as to the vacancy for the unexpired term as against any full term, but without designation as to vacancy between unexpired terms if there is more than one unexpired term;
 - (2) If the unexpired term occurs beginning on the tenth day before the filing period ends under G.S. 163-106(c), and ending on the sixtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy for the unexpired term as against any full term, but without designation as to vacancy between unexpired terms if there is more than one unexpired term;
 - (3) beginning on the fifty-ninth day before the general election and ending on the thirtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy;
 - (4) The general election ballot shall contain, without designation as to vacancy between full terms, spaces for the election of all full terms. The general election ballot shall contain, without designation as to vacancy between unexpired terms, spaces for the election of all unexpired terms where nominations were made under subdivisions (1) or (2) of this subsection;
 - (5) In the general election, the persons receiving the highest numbers of votes equal to the number of full terms to be elected shall be elected to those full terms;
 - (6) In the general election, the persons receiving the highest numbers of votes shall be elected to the unexpired term or terms, in order of length of the unexpired terms (longest first), until all those terms have been filled. If unexpired terms of different lengths are to be filled, and two or more persons receive an equal number of votes, and all are to be elected, then the provisions of the last sentence of G.S. 163-191 shall not apply, and the State Board of Elections by lot shall determine which term each candidate elected is to receive;
 - (7) In addition, the general election ballot shall contain, with designation of vacancy, spaces for the election of all unexpired terms where nominations are made under subdivision (3) of this subsection.
- (c) When there is no election in a judicial district for any offices of superior court judge for full terms, and there is to be an election for one

or more unexpired terms in that district at that same election in accordance with Article VI, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the unexpired term occurs prior to the tenth day before the filing period ends under G.S. 163-106(c), nominations shall be made by primary election as provided by Article 10 of this Chapter, without designation as to the vacancy;
- (2) If the unexpired term occurs beginning on the tenth day before the filing period ends under G.S. 163-106(c), and ending on the sixtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, without designation as to the vacancy;
- (3) Beginning on the fifty-ninth day before the general election and ending on the thirtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy;
- (4) The general election ballot shall contain, without designation as to vacancy, spaces for the election of all unexpired terms where nominations were made under subdivisions (1) or (2) of this subsection. The persons receiving the highest numbers of votes equal to the unexpired term or terms, shall be elected to the unexpired term or terms, in order of length of the unexpired terms (longest first), until all those terms have been filled. If unexpired terms of different lengths are to be filled, and two or more persons receive an equal number of votes, and all are to be elected, then the provisions of the last sentence of G.S. 163-191 shall not apply, and if the terms are of unequal length, the State Board of Elections by lot shall determine which term each candidate elected is to receive;
- (5) In addition, the general election ballot shall contain, with designation of vacancy, spaces for the election of all unexpired terms where nominations are made under subdivision (3) of this subsection."

Sec. 2. G.S. 163-22(k), G.S. 163-227(a), G.S. 163-229(b), G.S. 163-229(c), G.S. 163-230(2)a., G.S. 163-248(b), G.S. 163-248(c) and G.S. 163-227.3(a) are amended by deleting "60 days", each place those words appear, and substituting "50 days".

Sec. 3. G.S. 163-22(k) is amended by deleting "45 days", and substituting "30 days".

Sec. 4. This act is effective upon ratification, but Sections 2 and 3 of this act shall expire with respect to primaries and elections held on or after December 31, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

S.B. 922

CHAPTER 987

AN ACT TO MAKE PROVISIONS FOR FILLING UNEXPIRED TERMS FOR SUPERIOR COURT JUDGE IN THE SAME YEAR AS FULL TERMS, WITHOUT APPLYING A DESIGNATED SEAT RULE EXCEPT WHEN THE VACANCY OCCURS SO CLOSE TO THE ELECTION THAT IT IS AN ADMINISTRATIVE NECESSITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new section to read:

“§ 163-156. *Rules when two or more vacancies for superior court judge of different term length are to be voted on in the same year, or where two or more elections for less than a full term are to be voted on in the same year.*—(a) The General Assembly finds that:

- (1) The provisions of law requiring candidates for superior court judge to designate the vacancy they are seeking are unenforceable under Section 5 of the Voting Rights Act of 1965;
- (2) In some judicial districts, where such staggered terms have been approved under Section 5 of the Voting Rights Act, not all the terms of the superior court judges expire at the same time, and the provisions of Article IV, Section 19 of the North Carolina Constitution dealing with filling of unexpired terms in an election could result in an election being held simultaneously in a judicial district for one or more full 8-year terms, and one or more unexpired terms of two, four, or six years.
- (3) Article IV, Section 19 of the North Carolina Constitution requires that vacancies in superior court judgeships occurring as late as 31 days before the general election be filled for the remainder of the unexpired term, which is long after the main part of the judicial ballot has been printed, and while absentee voting is already going on. In the past, when an unexpired term has occurred soon before the election, a supplemental ballot has been issued for use along with the regular judicial ballot. If the State were required to conduct elections for last-minute unexpired terms without designation as to vacancy with the already scheduled full terms, it would require scrapping ballots already printed and would greatly disrupt the election process.

(b) When there is an election in a judicial district for one or more offices of superior court judge for full terms, and there is also to be an election for one or more unexpired terms in the same district at that same election in accordance with Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the unexpired term occurs prior to the tenth day before the filing period ends under G.S. 163-106(c), nominations shall be made by primary election as provided by Article 10 of this Chapter, without designation as to the vacancy;
- (2) If the unexpired term occurs beginning on the tenth day before the filing period ends under G.S. 163-106(c), and ending on the

sixtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, without designation as to the vacancy;

- (3) Beginning on the fifty-ninth day before the general election and ending on the thirtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy;
- (4) The general election ballot shall contain, without designation as to vacancy, spaces for the election of all full terms and all unexpired terms where nominations were made under subdivisions (1) or (2) of this subsection. The persons receiving the highest numbers of votes equal to the number of full terms to be elected shall be elected to those full terms. The persons receiving the next highest numbers of votes shall be elected to the unexpired term or terms, in order of length of the unexpired terms (longest first), until all those terms have been filled. If two or more persons receive an equal number of votes, and all are to be elected, then the provisions of the last sentence of G.S. 163-191 shall not apply, and if the terms are of unequal length, the State Board of Elections by lot shall determine which term each candidate elected is to receive;
- (5) In addition, the general election ballot shall contain, with designation of vacancy, spaces for the election of all unexpired terms where nominations are made under subdivision (3) of this subsection.

(c) When there is no election in a judicial district for any offices of superior court judge for full terms, and there is to be an election for one or more unexpired terms in the that district at that same election in accordance with Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the unexpired term occurs prior to the tenth day before the filing period ends under G.S. 163-106(c), nominations shall be made by primary election as provided by Article 10 of this Chapter, without designation as to the vacancy;
- (2) If the unexpired term occurs beginning on the tenth day before the filing period ends under G.S. 163-106(c), and ending on the sixtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, without designation as to the vacancy;
- (3) Beginning on the fifty-ninth day before the general election and ending on the thirtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees

shall be printed on the general election ballots, with designation as to the vacancy;

- (4) The general election ballot shall contain, without designation as to vacancy, spaces for the election of all unexpired terms where nominations were made under subdivisions (1) or (2) of this subsection. The persons receiving the highest numbers of votes equal to the unexpired term or terms, in order of length of the unexpired terms (longest first), shall be elected to the unexpired term or terms, until all those terms have been filled. If two or more persons receive an equal number of votes, and all are to be elected, then the provisions of the last sentence of G.S. 163-191 shall not apply, and if the terms are of unequal length, the State Board of Elections by lot shall determine which term each candidate elected is to receive.
- (5) In addition, the general election ballot shall contain, with designation of vacancy, spaces for the election of all unexpired terms where nominations are made under subdivision (3) of this subsection."

Sec. 2. G.S. 163-22(k), 163-227(a), 163-229(b), 163-229(c), 163-230(2)a., 163-248(b), 163-248(c) and 163-227.3(a) are amended by deleting "60 days", each place those words appear, and substituting "50 days".

Sec. 3. G.S. 163-22(k) is amended by deleting "45 days", and substituting "30 days".

Sec. 4. This act shall only become effective if the Attorney General of the United States interposes objection to Senate Bill 892, 1985 Session as to the fact that such bill provides for designating vacancies for all unexpired terms separately from full terms. If such objection is made, then this act is effective on the date of such objection, and shall be submitted immediately under Section 5 of the Voting Rights Act of 1965. Sections 2 and 3 of this act shall expire with respect to primaries and elections held on or after December 31, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 1609

CHAPTER 988

AN ACT RELATING TO MUNICIPAL WARDS AND PRECINCTS IN THOSE MUNICIPALITIES LOCATED IN MORE THAN ONE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-285(1) is amended by adding the following immediately before the last sentence: "The local Board of Elections conducting municipal elections in those municipalities located in two or more counties is not required to have more than one voting place in each municipal ward or precinct regardless of whether or not the ward or precinct is located within two or more counties."

Sec. 2. This act applies to Nash, Edgecombe, and Wilson Counties only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.

H.B. 266

CHAPTER 989**AN ACT TO ADOPT THE REVISED UNIFORM LIMITED PARTNERSHIP ACT.**

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 59 of the General Statutes is amended by adding a new section to read:

“§ 59-30.1. No limited partnership shall be formed under this Article after September 30, 1986.”

Sec. 2. Chapter 59 of the General Statutes is amended by adding a new Article to read:

“Article 5.

“Revised Uniform Limited Partnership Act.

“Part 1. General Provisions.

“§ 59-101. *Short Title.*—This Article may be cited as the Revised Uniform Limited Partnership Act.

“§ 59-102. *Definitions.*—As used in this Article, unless the context otherwise requires:

- (1) ‘Certificate of limited partnership’ means the certificate referred to in G.S. 59-201, and the certificate as amended.
- (2) ‘Conformed Copy’ shall include a photostatic or other photographic copy of the original document.
- (3) ‘Contribution’ means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.
- (4) ‘Event of withdrawal of a general partner’ means an event that causes a person to cease to be a general partner as provided in G.S. 59-402.
- (5) ‘Foreign limited partnership’ means a partnership formed under the laws of any state, province, country, or other jurisdiction other than this State and having as partners one or more general partners and one or more limited partners.
- (6) ‘General partner’ means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.
- (7) ‘Limited partner’ means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.
- (8) ‘Limited partnership’ and ‘domestic limited partnership’ mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners.
- (9) ‘Partner’ means a limited or general partner.

- (10) 'Partnership agreement' means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.
- (11) 'Partnership interest' means a partner's share of the allocations of income, gain, loss, deduction or credit of a limited partnership and the right to receive distributions of cash or other partnership assets.
- (12) 'Person' means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.
- (13) 'State' means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"§ 59-103. *Name*.—(a) The name of the limited partnership shall contain without abbreviation the words 'limited partnership';

(b) The limited partnership name shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner;

(c) The limited partnership name shall not contain any word or phrase which is likely to mislead the public or which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its certificate of limited partnership;

(d) The limited partnership name shall not be the same as, or deceptively similar to, the name of any domestic corporation or limited partnership or of any foreign corporation or limited partnership authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved or registered by some other person in the manner prescribed by G.S. 59-104.

"§ 59-104. *Reservation of name*.—(a) The exclusive right to a limited partnership name not prohibited by G.S. 59-103 may be reserved for a period of 90 days by:

- (1) any person intending to organize a limited partnership under this act;
- (2) any domestic limited partnership intending to change its name;
- (3) any foreign limited partnership intending to make application for a certificate of authority to transact business in this State;
- (4) any foreign limited partnership authorized to transact business in this State and intending to change its name;
- (5) any person intending to organize a foreign limited partnership and intending to have such limited partnership make application for a certificate of authority to transact business in this State.

(b) The same name shall not be reserved for two or more consecutive 90-day periods by the same applicant or for the use and benefit of the same applicant; nor shall such consecutive reservations be made of names so similar as to fall within the prohibition of this section.

(c) The reservation of name, pursuant to subsection (a), shall be made by filing with the Secretary of State an executed application therefor stating the name and address of the applicant, and the Secretary of State shall, upon tender of the fee hereinafter prescribed, reserve the name

exclusively for the applicant unless he finds that the name is not available under the provisions of this section.

(d) The exclusive right to a specified limited partnership name reserved hereunder, may, on tender of the fee hereinafter prescribed, be transferred to any other limited partnership by filing in the office of the Secretary of State a notice of such transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

(e) The Secretary of State may revoke any reservation of a limited partnership name if he finds, upon a hearing held not less than five days after written notice has been sent by registered mail to the person or limited partnership who made the reservation, that the application therefor or any transfer thereof was not made in good faith or that any statement contained in the application for reservation was false when such application was filed or has thereafter become false.

(f) The use by a limited partnership of a name in violation of this section may be enjoined notwithstanding the filing of its certificate of limited partnership by the Secretary of State.

(g) The filing of a certificate of limited partnership by any domestic limited partnership shall not authorize the use in this State of the limited partnership name in violation of the rights of any third party under the federal Trademark Act, the Trademark Act of this State, or the common law; and the filing of such certificate shall not be a defense to an action for violation of any such rights.

“§ 59-105. *Registered office and registered agent.*—Each limited partnership shall have and continuously maintain in this State:

- (1) a registered office, which may be, but need not be, its place of business;
- (2) a registered agent, which agent may be either an individual resident of this State whose business office is identical with such registered office, or, a domestic corporation, or a foreign corporation authorized to transact business in this State, having a business office identical with such registered office.

“§ 59-106. *Records to be kept.*—(a) Each limited partnership shall keep in this State at its registered office:

- (1) a current list of the full name and last known mailing address of each partner set forth in alphabetical order;
- (2) a copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;
- (3) copies of the limited partnership's federal, State and local income tax returns and reports, if any, for the three most recent years;
- (4) copies of any then effective written partnership agreements and copies of any financial statements of the limited partnership for the three most recent years; and
- (5) unless contained in a written partnership agreement:
 - (i) the amount of cash and a description and statement of the agreed value of the other property or services contracted by each partner and which each partner has agreed to contribute;

- (ii) the times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;
- (iii) any right of a partner to receive distribution of property, including cash from the limited partnership; and
- (iv) events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

(b) The books and records are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

“§ 59-107. *Nature of business.*—A limited partnership may carry on any business that a partnership without limited partners may carry on.

“§ 59-108. *Business transactions of partner with the partnership.*—Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to G.S. 59-804 and other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

“Part 2. Formation; Certificate of Limited Partnership.

“§ 59-201. *Certificate of limited partnership.*—(a) In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the Secretary of State and set forth:

- (1) the name of the limited partnership;
- (2) the address, including county and city or town, and street and number, if any, of the registered office and the name of the registered agent at such address for service of process required to be maintained by G.S. 59-105;
- (3) the latest date upon which the limited partnership is to dissolve; and
- (4) the name and the address, including county and city or town, and street and number, if any, of each general partner.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State or at any later time not more than 20 days subsequent to the endorsement of the Secretary of State specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

“§ 59-202. *Amendment to certificate.*—(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate shall set forth:

- (1) the name of the limited partnership;
- (2) the date of filing of the certificate; and
- (3) the amendment to the certificate.

(b) Within 30 days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

- (1) the admission of a new general partner;
- (2) the withdrawal of a general partner; or

- (3) the continuation of the business under G.S. 59-801 after an event of withdrawal of a general partner.

(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the partners may determine.

“§ 59-203. *Cancellation of certificate.*—(a) A certificate of limited partnership shall be cancelled upon the dissolution and the commencement of winding up of the partnership or at any other time that there are no limited partners. A certificate of cancellation shall be filed in the office of the Secretary of State and set forth:

- (1) the name of the limited partnership;
- (2) the date of filing of its certificate of limited partnership;
- (3) the reason for filing the certificate of cancellation;
- (4) the effective date (which shall be a date certain not more than 20 days from the date of filing) of cancellation if it is not to be effective upon the filing of the certificate; and
- (5) any other information the partners filing the certificate determine.

“§ 59-204. *Execution of certificates.*—(a) Each certificate required by this Article to be filed in the office of the Secretary of State shall be executed in the following manner:

- (1) an original certificate of limited partnership must be signed by all general partners;
- (2) a certificate of amendment must be signed by all general partners and by each other partner designated in the certificate as a new general partner; and
- (3) a certificate of cancellation must be signed by all general partners.

(b) Any person may sign a certificate by an attorney-in-fact.

(c) The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

“§ 59-205. *Amendment or cancellation by judicial act.*—If a person required by G.S. 59-204 to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may petition the court for the county in which the partnership's registered office is located to direct the amendment or cancellation. If the court finds that the amendment or cancellation is proper and that any person so designated has failed or refused to execute the certificate, it shall order the Secretary of State to record an appropriate certificate of amendment or cancellation.

“§ 59-206. *Filing in office of Secretary of State.*—(a) Whenever the provisions of this Article require any document relating to a limited partnership to be executed and filed in accordance with this Article, unless otherwise specifically stated in this Article:

- (1) There shall be an original executed document and also one conformed copy.
 - (2) The original document so signed, together with the conformed copy, shall be delivered to the Secretary of State. Unless he finds that it does not conform to law, the Secretary of State shall, when the proper taxes and fees have been tendered, endorse upon the original the word 'filed' and the hour, day, month and year of the filing thereof and shall file the same in his office. The Secretary of State shall thereupon immediately compare the copy with the original and if he finds that they are identical he shall make upon the conformed copy the same endorsement which appears on the original and shall attach to the copy a certificate stating that attached thereto is a true copy of the document, designated by an appropriate title, filed in his office and showing the date of such filing. He shall thereupon return the copy so certified to the limited partnership or its representatives.
 - (3) The copy certificate as aforesaid, shall, within 60 days after the receipt by the limited partnership or its representative be delivered to the register of deeds of the county wherein the limited partnership has its registered office, and, when the proper fees shall have been tendered, it shall be recorded and properly indexed as is customary for partnerships. Promptly after the recordation, the register of deeds shall note the fact of recordation on the said copy and return it to the limited partnership or its representatives.
- (b) Any such document required to be filed shall be completely effective when endorsed by the Secretary of State as provided in subsection (a)(2) above and the transaction to be effectuated thereby shall thereupon be deemed to be completely consummated as if all the required recording had been perfected, provided, however, that in lieu of the time of such endorsement by the Secretary of State, such document may fix an hour, day, month and year not more than 20 days subsequent to the endorsement of the Secretary of State and the transaction shall be deemed to be completely consummated at the time fixed by such document as if all the required recording had been perfected.
- (c) It shall be the duty of the Secretary of State, whenever so requested and upon tender of the proper fees, to certify as aforesaid any true copy of any such document on file in his office, or if such be the request, to make or cause to be made typewritten or photostatic copies of such documents and to certify the same as aforesaid.
- "§ 59-207. *Liability for false statement in certificate.*—If any certificate of limited partnership or certificate of amendment or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:
- (1) any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and
 - (2) any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has

changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under G.S. 59-205.

“§ 59-208. *Notice.*—The fact that a certificate of limited partnership is on file in the office of the Secretary of State is notice that the partnership is a limited partnership and the persons designated therein as general partners are general partners, but it is not notice of any other fact.

“Part 3.

“Limited Partners.

“§ 59-301. *Admission of additional limited partners.*—After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(1) in the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement, or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(2) in the case of an assignee of a partnership interest of a partner who has the power, as provided in G.S. 59-704, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

“§ 59-302. *Voting.*—Subject to G.S. 59-303, the partnership agreement may grant to all or a specified group of the limited partners the right to vote (on a per capita or other basis) upon any matter.

“§ 59-303. *Liability to third parties.*—(a) Except as provided in subsection (d), a limited partner is not bound by the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of his participation in control.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) solely by doing one or more of the following:

- (1) being a contractor for or an agent or employee of the limited partnership or of a general partner, or an officer, director, or shareholder of a corporate general partner;
- (2) consulting with and advising a general partner with respect to the business of the limited partnership;
- (3) acting as surety for the limited partnership;
- (4) proposing, approving or disapproving an amendment to the partnership agreement;
- (5) proposing or voting on one or more of the following matters:
 - (i) the dissolution and winding up of the limited partnership;
 - (ii) the sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;

- (iii) the incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;
- (iv) a change in the nature of the business; or
- (v) the addition, removal or substitution of general partners;
- (6) bringing an action in the right of a limited partnership to recover a judgment in its favor pursuant to Part 10 of this Article;
- (7) approving or disapproving a transaction involving an actual or potential conflict of interest between a general partner and the limited partnership; or
- (8) requesting or attending a meeting of partners.

(c) The enumeration in subsection (b) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the control of the business of the limited partnership.

(d) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by G.S. 59-103(b)(i), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

“§ 59-304. *Person erroneously believing himself limited partner.*—(a) Except as provided in subsection (b), a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

- (1) causes an appropriate certificate of limited partnership to be executed and filed; or
- (2) withdraws from future equity participation in the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) is liable as a general partner to any third party who transacts business with the enterprise (i) before the person withdraws from the enterprise, or (ii) before the person gives notice to the partnership of his withdrawal from future equity participation, but only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

“§ 59-305. *Information.*—Each limited partner has the right to:

- (1) inspect and copy any of the partnership records required to be maintained by G.S. 59-106; and
- (2) obtain from the general partners from time to time upon reasonable demand (i) information regarding the state of the business and financial condition of the limited partnership, (ii) promptly after becoming available, a copy of the limited partnership's federal, State, and local income tax returns for each year, and (iii) other information regarding the affairs of the limited partnership as is just and reasonable.

“Part 4. General Partners.

“§ 59-401. *Admission of additional general partners.*—Unless otherwise provided in the partnership agreement, after the filing of a limited

partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner.

“§ 59-402. *Events of withdrawal.*—Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

- (1) the general partner withdraws from the limited partnership as provided in G.S. 59-602;
- (2) the general partner ceases to be a member of the limited partnership as provided in G.S. 59-702;
- (3) the general partner is removed as a general partner in accordance with the partnership agreement;
- (4) unless otherwise provided in the partnership agreement, the general partner: (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;
- (5) unless otherwise provided in the partnership agreement, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated;
- (6) in the case of a general partner who is a natural person,
 - (i) his death; or
 - (ii) the entry or an order by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate;
- (7) in the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);
- (8) in the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;
- (9) in the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

(10) in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

"§ 59-403. *General powers and liabilities.*—Except as provided in this act or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions and liabilities of a partner in a partnership without limited partners.

"§ 59-404. *Contributions by a general partner.*—A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

"§ 59-405. *Voting.*—The partnership agreement may grant to all or certain identified general partners the right to vote (on a per capita or any other basis), separately or with all or any class of the limited partners, on any matter.

"Part 5. Finance.

"§ 59-501. *Form of contribution.*—The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

"§ 59-502. *Liability for contributions.*—(a) Except as provided in the agreement of limited partnership, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if he is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, he is obligated at the option of the limited partnership to contribute cash equal to that portion of the value of the stated contribution that has not been made.

(b) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this act may be compromised only by consent of all the partners. Any such compromise, however, shall not affect the rights of a creditor whose claim arose prior to the date of the compromise.

(c) No promise by a limited partner to contribute to the limited partnership is enforceable unless in a writing signed by the limited partner.

"§ 59-503. *Sharing income, gain, loss, deduction or credit.*—Allocation of the income, gain, loss, deduction or credit of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide in writing, items of income, gain, loss, deduction or credit shall be allocated on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

“§ 59-504. *Sharing of distributions.*—Distributions of cash or other assets of a limited partnership shall be made among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

“Part 6. Distribution and Withdrawal.

“§ 59-601. *Interim distributions.*—Except as provided in this Article, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement.

“§ 59-602. *Withdrawal of general partner.*—After filing of the original certificate of limited partnership a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner, in addition to its other remedies, and damages for breach of the partnership agreement.

“§ 59-603. *Withdrawal of limited partner.*—A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in writing in the partnership agreement. If the partnership agreement does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months prior written notice to each general partner at his address on the books of the limited partnership at its registered office in this State.

“§ 59-604. *Distribution upon withdrawal.*—Except as provided in this Article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he is entitled under the partnership agreement and, if not otherwise provided in the agreement, he is entitled to receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal.

“§ 59-605. *Distribution in kind.*—Except as provided in writing in the limited partnership agreement, (1) a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash; and (2) a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

“§ 59-606. *Right to distribution.*—Subject to the provisions of Part 6 of this Article, at the time a partner becomes entitled to receive a distribution, he has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

“§ 59-607. *Limitations on distribution.*—A partner shall not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

“§ 59-608. *Liability upon return of contribution.*—(a) If a partner has received the return of any part of his contribution without violation of the partnership agreement or this Article, he is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(b) If a partner has received the return of any part of his contribution in violation of the partnership agreement or this Article, he is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully returned.

(c) A partner receives a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value of his contribution which has not been distributed to him.

“Part 7. Assignment of Partnership Interest.

“§ 59-701. *Nature of partnership interest.*—A partnership interest is personal property.

“§ 59-702. *Assignment of partnership interest.*—Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the allocation and distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a limited partner shall continue to be a limited partner after assignment of all or any part of his partnership interest. Except as provided in the partnership agreement, a general partner ceases to be a general partner upon assignment of all his partnership interest.

“§ 59-703. *Rights of creditor.*—On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. The general partners shall have no liability to a partner for payments to a judgment creditor pursuant to this provision. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This Article does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

“§ 59-704. *Right of assignee to become limited partner.*—(a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the assignor gives the assignee that right in accordance with authority described in the partnership agreement, or (2) all other partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this Article. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in Part 6 of this Article. However, the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner and which could not be ascertained from the partnership agreement.

(c) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under G.S. 59-207, 59-502, and 59-608.

“§ 59-705. *Power of estate of deceased or incompetent partner.*—If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner’s executor, administrator, guardian, conservator, or other legal representative may exercise all of the partner’s rights for the purpose of settling his estate or administering his property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

“Part 8. Dissolution.

“§ 59-801. *Nonjudicial dissolution.*—A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

- (1) at the time specified in the certificate of limited partnership or upon the happening of events specified in writing in the partnership agreement;
- (2) written consent of all partners;
- (3) an event of withdrawal of a general partner unless at the time there is at least one other general partner and the written provisions of the partnership agreement permit the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within 90 days after the withdrawal, all remaining partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or
- (4) entry of a decree of judicial dissolution under G.S. 59-802.

“§ 59-802. *Judicial dissolution.*—On application by or for a partner the court may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement.

“§ 59-803. *Winding up.*—Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership’s affairs; but the court may wind up the limited

partnership's affairs upon application of any partner, his legal representative, or assignee.

"§ 59-804. *Distribution of assets.*—Upon the winding up of a limited partnership, the assets shall be distributed as follows:

- (1) to creditors, including limited partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under G.S. 59-601 or G.S. 59-604;
- (2) to general partners who are creditors to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under G.S. 59-601 or G.S. 59-604;
- (3) except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under G.S. 59-601 or G.S. 59-604; and
- (4) except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

"Part 9. Foreign Limited Partnerships.

"§ 59-901. *Law governing.*—Subject to the Constitution of this State, (1) the laws of the jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

"§ 59-902. *Registration.*—(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary of State an original and one conformed copy of an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

- (1) the name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
- (2) the jurisdiction and date of its formation;
- (3) the date of formation and the period of duration;
- (4) the address, including county and city or town, and street and number, if any, of the principal office of the foreign limited partnership in the jurisdiction under the laws of which it is formed;
- (5) the address, including county and city or town, and street and number, if any, of the proposed registered office of the foreign limited partnership in this State, and the name of its proposed registered agent in this State at such address; the agent must be an individual resident of this State, a domestic corporation, or a

foreign corporation having a place of business in, and authorized to do business in this State;

- (6) if the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;
- (7) a statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered agent in this State or whenever any such registered agent cannot with reasonable diligence be found at the registered office;
- (8) the names and addresses including county and city or town, and street and number, if any, of all of the general partners;
- (9) the execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

(b) Without excluding other activities which may not constitute transacting business in this State, a foreign limited partnership shall not be considered to be transacting business in this State, for the purpose of this Article, by reason of carrying on in this State any one or more of the following activities:

- (1) maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
- (2) holding meetings of its partners or carrying on other activities concerning its internal affairs;
- (3) maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;
- (4) maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;
- (5) soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this State before becoming binding contracts;
- (6) making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and sale, the acquiring of property at foreclosure sale and the management and rental of such property for a reasonable

time while liquidating its investment, provided no office or agency therefor is maintained in this State;

- (7) taking security for or collecting debts due to it or enforcing any rights in property securing the same;
- (8) transacting business in interstate commerce;
- (9) conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature.

“§ 59-903. *Issuance of registration.*—(a) If the Secretary of State finds that an application conforms to law he shall, when all requisite taxes and fees have been tendered as in this Article prescribed:

- (1) endorse on the application the word ‘Filed’, and the hour, day, month and year of the filing thereof;
- (2) file in his office the application;
- (3) issue a certificate of authority to transact business in this State to which he shall affix the conformed copy of the application; and
- (4) send to the foreign limited partnership or its representative the certificate of authority, together with the conformed copy of the application affixed thereto.

“§ 59-904. *Name.*—A foreign limited partnership may register with the Secretary of State under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words ‘limited partnership’ and that could be registered by a domestic limited partnership.

“§ 59-905. *Changes and amendments.*—If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the Secretary of State an original and one conformed copy of a certificate, signed by a general partner, correcting such statement.

“§ 59-906. *Cancellation of registration.*—A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a general partner. A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this State.

“§ 59-907. *Transaction of business without registration.*—(a) No foreign limited partnership transacting business in this State without permission obtained through a certificate of authority under this Article shall be permitted to maintain any action or proceeding in any court of this State unless such foreign limited partnership shall have obtained a certificate of authority prior to trial.

(b) The failure of a foreign limited partnership to obtain a certificate of authority to transact business in this State shall not impair the validity of any contract act of the foreign limited partnership and shall not prevent the foreign limited partnership from defending any action or proceeding in any court of this State.

(c) A foreign limited partnership failing to obtain permission to transact business in this State as required by this Article or by prior

statutes then applicable shall be liable to the State for the years or parts thereof during which it transacted business in this State without such permission in an amount equal to all fees and taxes which would have been imposed by law upon such foreign limited partnership had it duly applied for and received such permission plus interest and all penalties imposed by law for failure to pay such fees and taxes, plus five hundred dollars (\$500.00) and costs. The Attorney General shall bring actions to recover all amounts due the State under the provisions of this section.

(d) The Secretary of State is hereby directed to require that every foreign limited partnership transacting business in this State comply with the provisions of this Article. The Secretary of State is authorized to employ such assistants as shall be deemed necessary in his office for the purpose of enforcing the provisions of this Article and for making such investigations as shall be necessary to ascertain foreign limited partnerships now transacting business in this State which may have failed to comply with the provisions of this Article.

(e) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

(f) A foreign limited partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

“§ 59-908. *Action by Attorney General.*—The Attorney General may bring an action to restrain a foreign limited partnership from transacting business in this State in violation of this Article.

“Part 10. Derivative Actions.

“§ 59-1001. *Right of action.*—A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

“§ 59-1002. *Proper plaintiff.*—In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) at the time of the transaction of which he complains or (2) his status as a partner had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

“§ 59-1003. *Pleading.*—In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

“§ 59-1004. *Expenses.*—(a) If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of any action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to remit to the limited partnership the remainder of those proceeds received by him.

(b) In any such action, the court, upon final judgment and a finding that the action was brought without reasonable cause, may require the

plaintiff or plaintiffs to pay to the defendant or defendants the reasonable expenses, including attorneys' fees, incurred by them in defense of the action.

"§ 59-1005. *Dismissal of action.*—Such action shall not be discontinued, dismissed, compromised or settled without the approval of the court. If the court shall determine that the interest of the partners or of the creditors of the partnership will be substantially affected by such discontinuance, dismissal, compromise, or settlement, the court, in its discretion, may direct that notice, by publication or otherwise, shall be given to such partners or creditors whose interest it determines will be so affected. If notice is so directed to be given, the court may determine which one or more of the parties to the action shall bear the expense of giving the same, in such amount as the court shall be awarded as costs of the action.

"§ 59-1006. *Construction.*—The provisions of this Article shall not be construed to deprive a partner of whatever rights of action he may possess in his individual capacity.

"Part 11. Miscellaneous.

"§ 59-1101. *Construction and application.*—This Article shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Article among states enacting it.

"§ 59-1102. *Rules for cases not provided for in this Article.*—In any case not provided for in this Article the provisions of Article 2 of this Chapter govern.

"§ 59-1103. *Severability.*—If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

"§ 59-1104. *Effective date and repeal.*—(a) Except as set forth below, the effective date of this act is October 1, 1986, and Article 1 of Chapter 59 of the North Carolina General Statutes is hereby repealed subject to the following:

- (1) G.S. 59-501, 59-502, and 59-608 shall apply only to contributions and distributions made after the effective date;
- (2) G.S. 59-704 applies only to admissions made after the effective date;
- (3) G.S. 59-804 shall not be construed so as to change the priority of creditors for transactions entered into prior to the effective date;
- (4) Unless agreed otherwise by the partners, the applicable provisions of existing law governing allocation of profits and losses (rather than the provisions of G.S. 59-503), distribution to a withdrawing partner (rather than the provisions of G.S. 59-604), and the distribution of assets upon the winding up of a limited partnership (rather than the provisions of G.S. 59-804) shall govern limited partnerships formed before the effective date of this act herein.

- (5) The repeal of any prior statutory provision by this act shall not impair, or otherwise affect, the organization or continued existence of a limited partnership existing at the effective date of this act, nor shall the repeal by this act of any such prior provision be construed so as to impair any contract or to affect any right accrued prior to the effective date of this act.

(b) Any foreign limited partnership formed under the laws of another jurisdiction doing business in this State prior to the effective date shall within two years thereafter comply with Part 9 of Article 5 of Chapter 59.

"§ 59-1105. *Forms.*—The Department of the Secretary of State shall prescribe forms to be used for all filings required to be made with the Office of the Secretary of State pursuant to this act and shall furnish copies of such forms upon request.

"§ 59-1106. *Fees.*—The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State:

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| (1) For filing a certificate of limited partnership (G.S. 59-201) | \$50.00 |
| (2) For filing a certificate of amendment (G.S. 59-202; 59-905) | 25.00 |
| (3) For filing a certificate of cancellation (G.S. 59-203; 59-906) | 25.00 |
| (4) For filing an application for reservation of name (G.S. 59-104(a)) | 10.00 |
| (5) For filing a transfer of name (G.S. 59-104(d)) | 10.00 |
| (6) For filing an application for registration as foreign limited partnership (G.S. 59-502) | 50.00 |
| (7) For preparing and furnishing a copy of any document, instrument or paper filed or recorded relating to a limited partnership (G.S. 59-206(c)) | |
| For the first page thereof | 1.00 |
| For each additional page | .40 |
| For affixing his certificate and official seal thereto | 2.00 |
| (8) For comparing a copy furnished to him of any document, instrument or paper filed or recorded relating to a limited partnership | |
| For each page | .20 |
| (9) For filing any other document not herein specifically provided for | 10.00." |

Sec. 2.1. There is hereby appropriated from the General Fund the sum of one hundred and sixty-five thousand and seventy-nine dollars (\$165,079) for fiscal year 1986-87 to the Secretary of State for the implementation of this act. Provided, however, nothing in this act shall be construed to obligate the General Assembly to appropriate more than is generated by these fees to implement the provisions of this act.

Sec. 3. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 578

CHAPTER 990

AN ACT TO CONFIRM THE ESTABLISHMENT OF AN ELEVATOR AND AMUSEMENT DEVICE DIVISION IN THE DEPARTMENT OF LABOR AND TO SET OUT THE POWERS AND DUTIES OF THE COMMISSIONER OF LABOR DEALING WITH THE REGULATION OF ELEVATORS, AMUSEMENT DEVICES AND RELATED EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 95 of the General Statutes is amended by adding a new Article to read:

“Article 14A.

“Elevator Safety Act of North Carolina.

“§ 95-110.1. *Short title and legislative purpose.*—(a) This Article shall be known as the Elevator Safety Act of North Carolina.

(b) The General Assembly finds that the use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public exposed to unsafe conditions and that prevention of these injuries and protection of employees and the public from unsafe conditions is in the best interests and welfare of the people of the State.

“§ 95-110.2. *Scope.*—This Article shall govern the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation and investigation of accidents involving:

- (1) Elevators, dumbwaiters, escalators, and moving walks;
- (2) Personnel hoists;
- (3) Inclined stairway chair lifts;
- (4) Inclined and vertical wheelchair lifts;
- (5) Manlifts; and
- (6) Special equipment.

This Article shall not apply to devices and equipment located and operated in a single family residence, to conveyors and related equipment within the scope of the American National Standard Safety Standard for Conveyors and Related Equipment (ANSI/ASME B20.1) constructed, installed and used exclusively for the movement of materials, or to mining equipment specifically covered by the Federal Mine Safety and Health Act or the Mine Safety and Health Act of North Carolina or the rules and regulations adopted pursuant thereto.

“§ 95-110.3. *Definition.*—(a) The term ‘Commissioner’ shall mean the North Carolina Commissioner of Labor or his authorized representative.

(b) The term ‘Director’ shall mean the Director of the Elevator and Amusement Device Division of the North Carolina Department of Labor.

(c) The term ‘dumbwaiter’ shall mean a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, the total inside height of which, whether or not provided with fixed or removable shelves, does not exceed four feet, the capacity

of which does not exceed 500 pounds, and which is used exclusively for carrying materials.

(d) The term 'elevator' shall mean a hoisting and lowering mechanism equipped with a car or platform which moves in guides, and which serves two or more floors of a building or structure.

(e) The term 'escalator' shall mean a power driven, inclined continuous stairway used for raising and lowering passengers.

(f) The term 'inclined stairway chair lift' shall mean a hoisting and lowering mechanism with one or more chairs or a platform for one or more wheelchairs installed on a stairway for the purpose of transporting a physically disabled person.

(g) The term 'inclined or vertical wheelchair lift' shall mean a powered platform-elevating device used to transport a physically disabled person in a wheelchair.

(h) The term 'manlift' shall mean platforms or brackets and accompanying handholds, mounted on, or attached to, an endless belt operating vertically in one direction only and being supported by, and driven through, pulleys at the top and bottom and intended primarily for the conveyance of persons.

(i) The term 'moving walk' shall mean a type of passenger carrying device on which passengers stand or walk and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted.

(j) The term 'operator' shall mean any person having direct control over the operation of any covered device or equipment.

(k) The term 'owner' shall mean any person or authorized agent of such person who owns a device or equipment subject to regulation under this Article, or in the event the device or equipment is leased, the lessee. The term 'owner' also shall include the State of North Carolina or any political subdivision thereof or any unit of local government.

(l) The term 'person' shall mean any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision thereof or any unit of local government.

(m) The term 'personnel hoist' shall mean an elevator installed inside or outside of buildings during construction, alteration or demolition and used primarily to raise and lower workers and other persons connected with or related to the building project.

(n) The term 'special equipment' shall mean any permanently or semi-permanently located device, manually or power-operated, used for moving or lifting persons or persons and materials but not considered as an elevator, escalator, dumbwaiter, moving walk, personnel hoist, inclined stairway chair lift, inclined or vertical wheelchair lift, or manlift. Special equipment shall include, but not be limited to, manhoists, lift bridges, elevators which are used only for handling building materials and workmen during construction, and stage and orchestra lifts.

"§ 95-110.4. *Elevator and Amusement Device Division established.*—There is hereby created an Elevator and Amusement Device Division within the Department of Labor. The Commissioner shall appoint a director of the Elevator and Amusement Device Division and such other

employees as the Commissioner deems necessary to assist the director in administering the provisions of this Article.

“§ 95-110.5. *Powers and duties of Commissioner.*—The Commissioner of Labor is hereby empowered:

- (1) To delegate to the Director of the Elevator and Amusement Device Division such powers, duties and responsibilities as the Commissioner determines will best serve the public interest in the safe operation of lifting devices and equipment;
- (2) To supervise the Director of the Elevator and Amusement Device Division;
- (3) To adopt, modify, or revoke such rules and regulations as are necessary for the purpose of carrying out the provisions of this Article including, but not limited to, those governing the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration and relocation of devices and equipment subject to the provisions of this Article. The rules and regulations promulgated pursuant to this rulemaking authority shall conform with good engineering practice as evidenced generally by the most recent editions of the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, the National Electrical Code, the American National Standard Safety Requirements for Personnel Hoists, the American National Standard Safety Code for Manlifts, the American National Standard Safety Standard for Conveyors and Related Equipment and similar codes promulgated by agencies engaged in research concerning strength of material, safe design, and other factors bearing upon the safe operation of the devices and equipment subject to the provisions of this Article. The rules and regulations may apply different standards to devices and equipment subject to this Article depending upon their date of installation. The rules and regulations for special equipment shall not adopt specifically any portion of the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks to inclined and vertical reciprocating conveyors;
- (4) To enforce rules and regulations adopted under authority of this Article;
- (5) To inspect and have tested for acceptance all new, altered or relocated devices or equipment subject to the provisions of this Article;
- (6) To make maintenance and periodic inspections and tests of all devices and equipment subject to the provisions of this Article as often as every six months;
- (7) To issue certificates of operation which certify for use such devices and equipment as are found to be in compliance with this Article and the rules and regulations promulgated thereunder;
- (8) To have free access, with or without notice, to the devices and equipment subject to the provisions of this Article, during reasonable hours, for purposes of inspection or testing;

- (9) To obtain an Administrative Search and Inspection Warrant in accordance with the provisions of Article 4A of Chapter 15 of the General Statutes;
- (10) To investigate accidents involving the devices and equipment subject to the provisions of this Article to determine the cause of such accident, and he shall have full subpoena powers in conducting such investigation;
- (11) To institute proceedings in the civil or criminal courts of this State, when a provision of this Article or the rules and regulations promulgated thereunder has been violated;
- (12) To issue a limited certificate of operation for any device or equipment subject to the provisions of this Article to allow the temporary or restricted use thereof;
- (13) To adopt, modify or revoke rules and regulations governing the qualifications of inspectors;
- (14) To grant exceptions from the requirements of the rules and regulations promulgated under authority of this Article and to permit the use of other devices when such exceptions and uses will not expose the public to an unsafe condition likely to result in serious personal injury or property damage;
- (15) To require that a construction permit must be obtained from the Commissioner before any device or equipment subject to the provisions of this Article is installed, altered or moved from one place to another and to require that the Commissioner must be supplied with whatever plans, diagrams or other data he deems necessary to determine whether or not the proposed construction is in compliance with the provisions of this Article and the rules and regulations promulgated thereunder;
- (16) To prohibit the use of any device or equipment subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such device or equipment shall be made operational only upon the Commissioner's determination that such device or equipment has been made safe;
- (17) To order the payment of all civil penalties provided by this Article. Funds collected pursuant to a civil penalty order shall be deposited with the State Treasurer;
- (18) To require that any device or equipment subject to the provisions of this Article which has been out-of-service and not continuously maintained for one or more years shall not be returned to service without first complying with all rules and regulations governing new installations; and
- (19) To coordinate enforcement and inspection activity relative to equipment, devices and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.

“§ 95-110.6. *Noncomplying devices and equipment; appeal.*—(a) Whenever the Commissioner determines that a device or equipment is subject to the provisions of this Article, and that the operation of such device or equipment is exposing the public to an unsafe condition likely

to result in serious personal injury or property damage, he may immediately order in writing that the use of the device or equipment be stopped or limited until such time as he determines that the device or equipment has been made safe for use by the public.

(b) Whenever the Commissioner determines that the provisions of this Article or the rules and regulations promulgated thereunder have not been complied with, he may refuse to issue or renew or may revoke, suspend or amend a certificate of operation.

(c) Whenever action is taken under this section, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

“§ 95-110.7. *Operation without certificate; operation not in accordance with Article or rules and regulations; operation after refusal to issue or after revocation of certificate.*—(a) No person shall operate or permit to be operated or use any device or equipment subject to the provisions of this Article without a valid certificate of operation unless the absence of a valid certificate is the result of the Commissioner's failure to inspect such device.

(b) No person shall operate or permit to be operated or use any device or equipment subject to the provisions of this Article otherwise than in accordance with this Article and the rules and regulations promulgated thereunder.

(c) No person shall operate or permit to be operated or use any device or equipment subject to the provisions of this Article after the Commissioner has refused to issue or has revoked the certificate of operation for such device or equipment.

“§ 95-110.8. *Operation of unsafe device or equipment.*—No person shall operate, permit to be operated or use any device or equipment subject to the provisions of this Article if such person knows or reasonably should know that such operation or use will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

“§ 95-110.9. *Reports required.*—(a) The owner of any device or equipment regulated under the provisions of this Article, or his authorized agent, shall within 24 hours notify the Commissioner of each and every occurrence involving such device or equipment when:

(1) The occurrence results in death or injury requiring medical treatment, other than first aid, by a physician. First aid means the one time treatment or observation of scratches, cuts not requiring stitches, burns, splinters and contusions or a diagnostic procedure, including examination and x-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel; or

(2) The occurrence results in damage to the device indicating a substantial defect in design, mechanics, structure or equipment, affecting the future safe operation of the device. No reporting is required in the case of normal wear and tear.

(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a complete and thorough

investigation of the occurrence. The report of the investigation shall be placed on file in the office of the division and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation.

(c) No person, following an occurrence as specified in subsection (a), shall operate, attempt to operate, use or move or attempt to move such device or equipment, or part thereof, without the approval of the Commissioner, unless so as to prevent injury to any person or persons.

(d) No person, following an occurrence as specified in subsection (a), shall remove or attempt to remove from the premises any damaged or undamaged part of such device or equipment or repair or attempt to repair any damaged part necessary to a complete and thorough investigation. The department must initiate its investigation within 24 hours of being notified.

"§ 95-110.10. *Violations; civil penalties; appeals.*—(a) Any person who violates G.S. 95-110.7(a) or (b) (Operation without certificate; operation not in accordance with Article or rules and regulations) shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each day each device or equipment is so operated or used.

(b) Any person who violates G.S. 95-110.7(c) (Operation after refusal to issue or after revocation of certificate) or G.S. 95-110.9(c) (Reports required) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day any such device or equipment is operated or used.

(c) Any person who violates the provisions of G.S. 95-110.9(d) (Reports required) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00).

(d) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person being charged, the gravity of the violation, the good faith of the person and the record of previous violations.

(e) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination in which event the final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(f) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a

suit duly heard and determined by the superior court of the General Court of Justice.

"§ 95-110.11. *Violations; criminal penalties.*—(a) Any person who violates G.S. 95-110.8 (Operation of unsafe device or equipment) shall be guilty of a misdemeanor and upon conviction thereof shall be fined one thousand dollars (\$1,000), or imprisoned for a period of six months, or both, in the discretion of the court.

(b) Any person misrepresenting himself as an authorized inspector administering or enforcing the provisions of this Article or the rules and regulations promulgated thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined one thousand dollars (\$1,000), or imprisoned for a period of 6 months, or both, in the discretion of the court.

(c) Any person knowingly making a material and false statement, representation or certification in any application, record, report, plan or any other document filed or required to be maintained pursuant to this Article or the rules and regulations promulgated thereunder shall be fined a maximum of five thousand dollars (\$5,000), or imprisoned for not more than six months, or both, in the discretion of the court.

"§ 95-110.12. *Legal representation.*—It shall be the duty of the Attorney General of North Carolina, when requested, to represent the Department of Labor in actions or proceedings in connection with this Article or the rules and regulations promulgated thereunder.

"§ 95-110.13. *Authorization for similar safety and health federal-State programs.*—Consistent with the requirements and conditions provided in this Article and the rules and regulations promulgated thereunder, the State, upon recommendation of the Commissioner of Labor, may enter into agreements or arrangements with appropriate federal agencies for the purpose of administering the enforcement of federal statutes and rules and regulations governing devices and equipment subject to the provisions of this Article.

"§ 95-110.14. *Confidentiality of trade secrets.*—All information reported to or otherwise obtained by the Commissioner or his agents or representatives in connection with any inspection or proceeding under this Article or the rules and regulations promulgated thereunder which contains or might reveal a trade secret shall be considered confidential, except as to carrying out this Article and the rules and regulations promulgated thereunder, or when it is relevant in any proceeding under the same. In any such proceeding the Commissioner or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

"§ 95-110.15. *Construction of Article and rules and regulations and severability.*—This Article and the rules and regulations promulgated thereunder shall receive a liberal construction to the end that the welfare of the people may be protected. If any provisions of either or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect those provisions or applications which can be given effect without the invalid provision or application, and to that end the provisions of this Article are severable."

Sec. 2. Chapter 95 of the General Statutes is amended by adding a new Article to read:

“Article 14B.

“Amusement Device Safety Act of North Carolina.

“§ 95-111.1. *Short title and legislative purpose.*—(a) This Article shall be known as the ‘Amusement Device Safety Act of North Carolina’.

(b) The General Assembly finds that although most amusement devices are free from defect and operated in a safe manner, those which are not impose a substantial probability of serious and preventable injury to the public. Protection of the public from exposure to such unsafe conditions and the prevention of injuries is in the best interest and welfare of the people of the State.

(c) It is the intent of this Article that amusement devices shall be designed, constructed, assembled or disassembled, maintained, and operated so as to prevent injuries.

“§ 95-111.2. *Scope.*—(a) This Article shall govern the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation and investigation of accidents involving amusement devices.

(b) This Article shall not apply to any single passenger coin-operated device, manually, mechanically, or electrically operated which customarily is placed, singly or in groups, in a public location and which does not normally require the supervision or services of an operator.

“§ 95-111.3. *Definitions.*—(a) The term ‘amusement device’ shall mean any device or attraction that carries or conveys or permits persons to walk along, around or over a fixed or restricted route or course or within a defined area including the entrances and exits thereto, for the purpose of giving such persons amusement, pleasure, thrills or excitement. The term shall include but not be limited to roller coasters, Ferris wheels, merry-go-rounds, glasshouses, waterslides, and walk-through dark houses.

(b) The term ‘amusement park’ shall mean any tract or area used principally as a permanent location for amusement devices.

(c) The term ‘Commissioner’ shall mean the North Carolina Commissioner of Labor or his authorized representative.

(d) The term ‘Director’ shall mean the Director of the Elevator and Amusement Device Division of the North Carolina Department of Labor.

(e) The term ‘operator’ shall mean any person having direct control of the operation of an amusement device.

(f) The term ‘owner’ shall mean any person or authorized agent of such person who owns an amusement device or in the event such device is leased, the lessee. The term ‘owner’ also shall include the State of North Carolina or any political subdivision thereof or any unit of local government.

(g) The term ‘person’ shall mean any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision thereof or any unit of local government.

“§ 95-111.4. *Powers and duties of Commissioner.*—The Commissioner of Labor is hereby empowered:

- (1) To delegate to the Director of the Elevator and Amusement Device Division such powers, duties and responsibilities as the

Commissioner determines will best serve the public interest in the safe operation of amusement devices;

- (2) To supervise the Director of the Elevator and Amusement Device Division;
- (3) To adopt, modify, or revoke such rules and regulations as are necessary for the purpose of carrying out the provisions of this Article including, but not limited to, those governing the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration and relocation of devices subject to the provisions of this Article. The rules and regulations promulgated pursuant to this rulemaking authority shall conform with good engineering and safety standards, formulas and practices;
- (4) To enforce rules and regulations adopted under authority of this Article;
- (5) To inspect and have tested for acceptance all new and relocated devices subject to the provisions of this Article. Relocated amusement devices shall be inspected upon reassembly at each new location within this State;
- (6) To inspect amusement devices which have been substantially rebuilt or substantially modified so as to change the original action, structure or capacity of the device;
- (7) To make maintenance and periodic inspections and tests of all devices subject to the provisions of this Article. Devices located in amusement parks shall be inspected at least once annually;
- (8) To issue certificates of operation which certify for use such devices as are found to be in compliance with this Article and the rules and regulations promulgated thereunder;
- (9) To have reasonable access, with or without notice, to the devices subject to the provisions of this Article during reasonable hours, for purposes of inspection or testing;
- (10) To obtain an Administrative Search and Inspection Warrant in accordance with the provisions of Article 4A of Chapter 15 of the General Statutes;
- (11) To investigate accidents involving devices subject to the provisions of this Article to determine the cause of such accident, and he shall have full subpoena powers in conducting such investigation;
- (12) To institute proceedings in the civil courts of this State, when a provision of this Article or the rules and regulations promulgated thereunder has been violated;
- (13) To adopt, modify or revoke rules and regulations governing the qualifications of inspectors;
- (14) To grant exceptions from the requirements of the rules and regulations promulgated under authority of this Article and to permit the use of other devices when such exceptions and uses will not expose the public to an unsafe condition likely to result in serious personal injury or property damage;
- (15) To require that before any device subject to the provisions of this Article is erected in this State, or before any additions or

alterations which substantially change such device are made, or before the physical spacing between such devices is changed, the owner or his authorized agent shall file with the Commissioner a written notice of his intention to do so and the type of device involved. Should circumstances necessitate, the Commissioner may require that such owner or his authorized agent furnish a copy of the plans, diagrams, specifications or stress analyses of such device before the inspection of same. When such plans, diagrams, specifications or stress analyses are requested by the Commissioner, he shall review them within 10 days of receipt, and upon approval, he shall authorize the device for use by the public;

- (16) To prohibit the use of any device subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such device shall be made operational only upon the Commissioner's determination that such device has been made safe;
- (17) To order the payment of all civil penalties provided by this Article. Funds collected pursuant to a civil penalty order shall be deposited with the State Treasurer; and
- (18) To coordinate enforcement and inspection activity relative to equipment, devices and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.

“§ 95-111.5. *Pre-opening inspection and test; records; revocation of certificate of operation.*—(a) An owner of a device subject to the provisions of this Article, or his authorized agent, is hereby required to make a pre-opening inspection and test of such device, prior to admitting the public, each day such device is intended to be used.

(b) An owner of a device subject to the provisions of this Article, or his authorized agent, is hereby required to maintain for at least 30 days a signed record of the required pre-opening inspection and test and such other pertinent information as the Commissioner may require by rule or regulation.

(c) The Commissioner is hereby empowered to revoke the certificate of operation for any device regulated by this Article upon failure by the owner or his authorized agent to make the required pre-opening inspection and test or to maintain the required record.

“§ 95-111.6. *Noncomplying devices; appeal.*—(a) Whenever the Commissioner determines that a device is subject to the provisions of this Article and the operation of such device is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, he immediately may order in writing that the use of the device be stopped or limited until such time as he determines that the device has been made safe for use by the public.

(b) Whenever the Commissioner determines that the provisions of this Article or the rules and regulations promulgated thereunder have not been complied with, he may refuse to issue or renew or may revoke, suspend or amend a certificate of operation.

(c) Whenever action is taken under this section, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

“§ 95-111.7. *Operation without certificate; operation not in accordance with Article or rules and regulations; operation after refusal to issue or after revocation of certificate.*—(a) No person shall operate or permit to be operated or use any device subject to the provisions of this Article without a valid certificate of operation.

(b) No person shall operate or permit to be operated or use any device subject to the provisions of this Article otherwise than in accordance with this Article and the rules and regulations promulgated thereunder.

(c) No person shall operate or permit to be operated or use any device subject to the provisions of this Article after the Commissioner has refused to issue or has revoked the certificate of operation for such device.

“§ 95-111.8. *Location notice.*—No person shall operate for the public or permit the operation for the public any device subject to the provisions of this Article after initial assembly or after reassembly at any location within this State without first notifying the Commissioner of the intention to operate for the public. Written notice of a planned schedule of operation or use shall be received at least five days prior to the first planned date of operation or use. Notice of unscheduled use shall be given immediately to the Commissioner by telephone or telegraph.

“§ 95-111.9. *Operation of unsafe device.*—No person shall operate, permit to be operated or use any device subject to the provisions of this Article if such person knows or reasonably should know that such operation or use will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

“§ 95-111.10. *Reports required.*—(a) The owner of any device regulated under the provisions of this Article, or his authorized agent, shall within 24 hours, notify the Commissioner of each and every occurrence involving such device when:

- (1) The occurrence results in death or injury requiring medical treatment, other than first aid, by a physician. First aid means the one time treatment or observation of scratches, cuts not requiring stitches, burns, splinters and contusions or a diagnostic procedure, including examination and x-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel; or
- (2) The occurrence results in damage to the device indicating a substantial defect in design, mechanics, structure or equipment, affecting the future safe operation of the device. No reporting is required in the case of normal wear and tear.

(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the division and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation.

(c) No person, following an occurrence as specified in subsection (a), shall operate, attempt to operate, use or move or attempt to move such device or part thereof, without the approval of the Commissioner, unless so as to prevent injury to any person or persons.

(d) No person, following an occurrence as specified in subsection (a), shall remove or attempt to remove from the premises any damaged or undamaged part of such device or repair or attempt to repair any damaged part necessary to a complete and thorough investigation. The department must initiate its investigation within 24 hours of being notified.

“§ 95-111.11. *Operators.*—Any operator of a device subject to the provisions of this Article shall be at least 18 years of age. An operator shall operate no more than one device at any given time. An operator shall be in attendance at all times the device is in operation.

“§ 95-111.12. *Liability insurance.*—(a) No owner shall operate a device subject to the provisions of this Article, unless at the time, there is in existence a contract of insurance providing coverage of not less than one million dollars (\$1,000,000) per occurrence against liability for injury to persons or property arising out of the operation or use of such device. The insurance contract shall be provided by any insurer or surety that is acceptable to the North Carolina Insurance Commissioner and licensed to transact business in this State.

(b) No certificate of operation shall be issued by the Commissioner until such time as the owner or his authorized agent provides proof of the required contract of insurance.

(c) The Commissioner shall have the right to request from the owner of a device regulated by this Article, or his authorized agent, proof of the required contract of insurance, and upon failure of the owner or his authorized agent to provide such proof, the Commissioner shall have the right to prevent the commencement of or to stop the operation of the device until such time as proof is provided.

“§ 95-111.13. *Violations; civil penalties; appeal.*—(a) Any person who violates G.S. 95-111.7(a) or (b) (Operation without certificate; operation not in accordance with Article or rules and regulations) shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each day each device is so operated or used.

(b) Any person who violates G.S. 95-111.7(c) (Operation after refusal to issue or after revocation of certificate) or G.S. 95-111.10(c) (Reports required) or G.S. 95-111.12 (Liability insurance) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day each device is so operated or used.

(c) Any person who violates G.S. 95-111.8 (Location notice) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day any device is operated or used without the location notice having been provided.

(d) Any person who violates the provisions of G.S. 95-111.10(d) (Reports required) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00).

(e) Any person who violates G.S. 95-111.9 (Operation of unsafe device) shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000).

(f) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person being charged, the gravity of the violation, the good faith of the person and the record of previous violations.

(g) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(h) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

“§ 95-111.14. *Denial of permission to enter amusement device.*—The owner or amusement device operator may deny any person entrance to an amusement device if he or she believes such entry may jeopardize the safety of the person desiring entry, riders or other persons.

“§ 95-111.15. *Legal representation.*—It shall be the duty of the Attorney General of North Carolina, when requested, to represent the Department of Labor in actions or proceedings in connection with this Article or the rules and regulations promulgated thereunder.

“§ 95-111.16. *Authorization for similar safety and health federal-State programs.*—Consistent with the requirements and conditions provided in this Article and the rules and regulations promulgated thereunder, the State, upon recommendation of the Commissioner of Labor, may enter into agreements or arrangements with appropriate federal agencies for the purpose of administering the enforcement of federal statutes and rules and regulations governing devices subject to the provisions of this Article.

“§ 95-111.17. *Confidentiality of trade secrets.*—All information reported to or otherwise obtained by the Commissioner or his agents or representatives in connection with any inspection or proceeding under this Article or the rules and regulations promulgated thereunder which contains or might reveal a trade secret shall be considered confidential, except as to carrying out this Article and the rules and regulations promulgated thereunder or when it is relevant in any proceeding under the same. In any such proceeding the Commissioner or the Court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

“§ 95-111.18. *Construction of Article and rules and regulations and severability.*—This Article and the rules and regulations promulgated thereunder shall receive a liberal construction to the end that the welfare of the people may be protected. If any provisions of either or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect those provisions or applications which can be given effect without the invalid provision or application, and to that end the provisions of this Article are severable.”

Sec. 3. G.S. 95-109 is hereby repealed.

Sec. 4. This act shall become effective on January 1, 1987. The Commissioner of Labor may begin official rulemaking pursuant to this act immediately upon ratification with such rules as he may adopt to become effective no earlier than January 1, 1987.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 1004

CHAPTER 991

AN ACT TO AUTHORIZE THE GOVERNOR TO APPOINT TWO STUDENT ADVISORS TO THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-11 is amended by adding a new subsection to read:

“(a1) Student advisors - The Governor is hereby authorized to appoint two high school students who are enrolled in the public schools of North Carolina as advisors to the State Board of Education. The student advisors shall participate in State Board deliberations in an advisory capacity only. The State Board may, in its discretion, exclude the student advisors from executive sessions.

The Governor shall make initial appointments of student advisors to the State Board as follows:

- (1) One high school junior shall be appointed for a two-year term beginning September 1, 1986, and expiring June 14, 1988; and
- (2) One high school senior shall be appointed for a one-year term beginning September 1, 1986, and expiring June 14, 1987. When an initial or subsequent term expires, the Governor shall appoint a high school junior for a two-year term beginning June 15 of that year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the Governor shall appoint a student advisor for the remainder of the unexpired term.

Student advisors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.”

Sec. 1.1. Expenses of the student advisors authorized under G.S. 115C-11(a1) shall be paid out of funds already appropriated to the Department of Public Education.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 1557

CHAPTER 992

AN ACT TO INCORPORATE THE TOWN OF PLEASANT HILL.

The General Assembly of North Carolina enacts:

Section 1. A Charter is enacted for the Town of Pleasant Hill to read:

"CHARTER OF THE TOWN OF PLEASANT HILL.

"Chapter I.

"Incorporation and Corporate Powers.

"Sec. 1.1. *Incorporation and Corporate Powers.* The inhabitants of the Town of Pleasant Hill are a body corporate and politic under the name 'Town of Pleasant Hill'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general law of North Carolina.

"Chapter II.

"Corporate Boundaries.

"Sec. 2.1. *Town Boundaries.* Until modified in accordance with law, the boundaries of the Town of Pleasant Hill are as follows:

"BEGINNING in the center of the Yadkin River where the Surry County line and the Yadkin County line joins the Wilkes County line just South of the Southern Railroad; thence, running up the Yadkin River to the mouth of the Little Elkin Creek; thence, upward Little Elkin Creek crossing NC Highway 268 to a point in the Little Elkin Creek North of SR 2021 and South of SR 2024 to a point where a smaller branch flows into Little Elkin Creek on the East bank of the Little Elkin Creek; thence, up said branch crossing SR 2024 to where said branch crosses SR 2027 at a point in said road; thence, East with SR 2027 to SR 2026; thence, South with SR 2026 to SR 2046; thence, East with SR 2046 to SR 2044; thence East with SR 2044 to the Wilkes and Surry County line; thence, South with said Wilkes and Surry County line to the Elkin city limits; with the Elkin city limits to the Wilkes County and Surry County lines and with said county lines back to the beginning.

It is the intent of this description not to cover any portion of the Elkin city limits in Wilkes County. In the event any portion of the lines contained in the description appearing above incorporates any portion of the city limits of the Town of Elkin, then that line shall be interpreted and shall read to run with the city limits of the Town of Elkin.

"Chapter III.

"Governing Body.

"Sec. 3.1. *Structure of governing body; number of members.* The governing body of the Town of Pleasant Hill is the Board of Commissioners, which has five members, and the Mayor.

"Sec. 3.2. *Manner of electing board.* The qualified voters of the entire Town elect the members of the Board of Commissioners.

"Sec. 3.3. *Term of office of Council members.* Until members are elected in accordance with this section, the Board of Commissioners shall consist of Herbert Transou, Silas Luffman, Archie Moore, Phillip Money, and J. A. Russell. In the 1987 municipal election, the three persons receiving the highest numbers of votes shall be elected for four-year terms, and the two persons receiving the next highest numbers of votes shall be elected for two-year terms. In 1989 and quadrennially thereafter, two members shall be elected for four-year terms. In 1991 and quadrennially thereafter, three members shall be elected for four-year terms.

"Sec. 3.4. *Election of Mayor; term of office.* Until a Mayor is elected in accordance with this section, Dan Johnson shall serve as Mayor. In 1987 and biennially thereafter, a Mayor shall be elected for a two-year term.

"Chapter IV.

"Elections.

"Sec. 4.1. *Conduct of Town elections.* The Mayor and Board of Commissioners shall be elected on a nonpartisan basis and the results determined by the plurality method as provided by G.S. 163-292.

"Chapter V.

"Administration.

"Sec. 5.1. *Mayor Council plan.* The Town of Pleasant Hill operates under the mayor-council plan as provided by Part 3 of Article 7 of Chapter 160A of the General Statutes."

Sec. 2. The Board of Commissioners of the Town of Pleasant Hill may adopt a budget ordinance for fiscal year 1986-87 without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act.

Sec. 3. (a) The Wilkes County Board of Elections shall conduct an election on the date of the general election in November 1986, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Pleasant Hill, the question of whether or not such area shall be incorporated as the Town of Pleasant Hill. Registration for the election shall be conducted in accordance with the provisions of Chapter 163 of the General Statutes.

(b) In the election, those voters who favor the incorporation of the Town of Pleasant Hill as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of Pleasant Hill", and those voters who are opposed to the incorporation of the Town of Pleasant Hill as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of Pleasant Hill".

Sec. 4. In such election, if a majority of the votes cast are not cast "FOR Incorporation of Pleasant Hill", then Sections 1 and 2 of this act shall have no force and effect.

Sec. 5. In such election, if a majority of the votes cast shall be cast "FOR Incorporation of Pleasant Hill" then: Sections 1 and 2 of this act shall become effective on the date that the Wilkes County Board of Elections determines and certifies the result of the election.

Sec. 6. The Wilkes County Board of Commissioners shall hold a public hearing on the question of incorporation of the Town of Pleasant

Hill, not less than 7 days nor more than 45 days before the date of the special election provided for in Sec. 3. Notice of the public hearing shall be given as provided in G.S. 153A-323. Proponents and opponents, including residents and officials of the Town of Elkin, whether or not they reside in Wilkes County, shall be given a reasonable and adequate opportunity to be heard.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

S.B. 939

CHAPTER 993

AN ACT TO PROVIDE FOR EXPEDITING CHILD SUPPORT CASES AS REQUIRED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. All existing provisions in Chapter 50 of the General Statutes are designated as Article 1. Sections 50-22 through 50-29 of Chapter 50 are reserved for future codification. A new Article 2 is added to Chapter 50 to read:

"Article 2.

"Expedited Process for Child Support Cases.

"§ 50-30. *Findings; policy; and purpose.*—(a) Findings. The General Assembly makes the following findings:

- (1) There is a strong public interest in providing fair, efficient, and swift judicial processes for establishing and enforcing child support obligations. Children are entitled to support from their parents, and court assistance is often required for the establishment and enforcement of parental support obligations. Children who do not receive support from their parents often become financially dependent on the State.
- (2) The State shall have laws that meet the federal requirements on expedited processes for obtaining and enforcing child support orders for purposes of federal reimbursement under Title IV-D of the Social Security Act, 42 U.S.C. § 66(a)(2). The Secretary of the Department of Health and Human Services may waive the expedited process requirement with respect to one or more judicial districts on the basis of the effectiveness and timeliness of support order issuance and enforcement within the district.
- (3) The State has a strong financial interest in complying with the expedited process requirement, and other requirements, of Title IV-D of the Social Security Act, but the State would incur substantial expense in creating statewide an expedited child support process as defined by federal law.
- (4) The State's judicial system is largely capable of processing child support cases in a timely and efficient manner and has a strong commitment to an expeditious system.

- (5) The substantial expense the State would incur in creating a new system for obtaining and enforcing child support orders would be reduced and better spent by improving the present system.

(b) Purpose and policy. It is the policy of this State to ensure, to the maximum extent possible, that child support obligations are established and enforced fairly, efficiently, and swiftly through the judicial system by means that make the best use of the State's resources. It is the purpose of this Article to facilitate this policy. The Administrative Office of the Courts and judicial officials in each judicial district shall make a diligent effort to ensure that child support cases, from the time of filing to the time of disposition, are handled fairly, efficiently, and swiftly. The Administrative Office of the Courts and the Department of Human Resources shall work together to improve procedures for the handling of child support cases in which the State or county has an interest, including all cases that qualify in any respect for federal reimbursement under Title IV-D of the Social Security Act.

"§ 50-31. *Definitions.*—As used in this Article, unless the context clearly requires otherwise:

(1) 'Child support case' means the part of any civil action or proceeding, whether intrastate or interstate, that involves a claim for the establishment or enforcement of a child support obligation.

(2) 'Dispose' or 'Disposition' of a child support case means the entry of an order in a child support case that:

- a. dismisses the claim for establishment or enforcement of the child support obligation; or
- b. establishes a child support obligation, either temporary or permanent, and directs how that obligation is to be satisfied; or
- c. orders a particular child support enforcement remedy.

(3) 'Expedited process' means a procedure for having child support orders established and enforced by a magistrate or clerk who has been designated as a child support hearing officer pursuant to this Article.

(4) 'Federal expedited process requirement' means the provision in Title IV, Part D of the Social Security Act, 42 U.S.C. § 666(a)(2), that requires as a condition of the receipt of federal funds that a state have laws that require the use of federally defined expedited processes for obtaining and enforcing child support orders.

(5) 'Filing' means the date the defendant is served with a pleading that seeks establishment or enforcement of a child support obligation, or the date written notice or a pleading is sent to a party seeking establishment or enforcement of a child support obligation.

(6) 'Hearing officer' or 'child support hearing officer' means a clerk or assistant clerk of superior court or a magistrate who has been designated pursuant to this Article to hear and enter orders in child support cases.

(7) 'Initiating party' means the party, the attorney for a party, a child support enforcement agency established pursuant to Title IV, Part D of the Social Security Act, or the clerk of superior court who initiates an action, proceeding, or procedure as allowed or required by law for the establishment or enforcement of a child support obligation.

"§ 50-32. Except where paternity is at issue, in all child support cases the district court judge shall dispose of the case from filing to disposition

within 60 days, except that this period may be extended for a maximum of 30 days by order of the court if:

- (1) Either party or his attorney cannot be present for the hearing; or
- (2) The parties have consented to an extension.

“§ 50-33. *Waiver of expedited process requirement.*—(a) DHR to seek waiver. The Department of Human Resources, with the assistance of the Administrative Office of the Courts, shall vigorously pursue application to the Secretary of the Department of Health and Human Services for waivers of the federal expedited process requirement.

(b) Districts that do not qualify. In any judicial district that does not qualify for a waiver of the federal expedited process requirement, an expedited process shall be established as provided in G.S. 50-34.

“§ 50-34. *Establishment of an expedited process.*—(a) Districts required to have expedited process. In any judicial district that is required by G.S. 50-33(b) to establish an expedited child support process, the Director of the Administrative Office of the Courts shall notify the chief district court judge and the clerk or clerks of superior court in the district in writing of the requirement. The Director of the Administrative Office of the Courts, the chief district court judge, and the clerk or clerks of superior court in the district shall implement an expedited child support process as provided in this section.

(b) Procedure for establishing expedited process. When a judicial district is required to implement an expedited process, the Director of the Administrative Office of the Courts, the chief district judge, and the clerk of superior court in an affected county shall determine by agreement whether the child support hearing officer or officers for that county shall be one or more clerks or one or more magistrates. If such agreement has not been reached within 15 days after the notice required by subsection (a) when implementation is required, the Director of the Administrative Office of the Courts shall make the decision. If it is decided that the hearing officer or officers for a county shall be magistrates, the chief district judge, the clerk of superior court, and the Director of the Administrative Office of the Courts shall ensure his or their qualification for the position. If it is decided that the hearing officer or officers for a county shall be the clerk or assistant clerks, the clerk of superior court in the county shall designate the person or persons to serve as hearing officer, and the chief district judge, the clerk of superior court, and the Director of the Administrative Office of the Courts shall ensure his or their qualification for the position.

(c) Public to be informed. When an expedited process is to be implemented in a county or judicial district, the chief district court judge, the clerk or clerks of superior court in affected counties in the district, and the Administrative Office of the Courts shall take steps to ensure that attorneys, the general public, and parties to pending child support cases in the county or district are informed of the change in procedures and helped to understand and use the new system effectively.

“§ 50-35. *Authority and duties of a child support hearing officer.*—A child support hearing officer who is properly qualified and designated under this Article has the following authority and responsibilities in all child support cases:

(1) To conduct hearings and to ensure that the parties' due process rights are protected;

(2) To take testimony and establish a record;

(3) To evaluate evidence and make decisions regarding the establishment or enforcement of child support orders;

(4) To accept and approve voluntary acknowledgements of support liability and stipulated agreements setting the amount of support obligations;

(5) To accept and approve voluntary acknowledgements and affirmations of paternity;

(6) Except as otherwise provided in this Article, to enter child support orders that have the same force and effect as orders entered by a district court judge;

(7) To enter temporary child support orders pending the resolution of unusual or complicated issues by a district court judge;

(8) To enter default orders; and

(9) To subpoena witnesses and documents.

"§ 50-36. *Child support procedures in districts with expedited process.*—(a) Scheduling of cases. The procedures of this section shall apply to all child support cases in any judicial district or county in which an expedited process has been established. All claims for the establishment or enforcement of a child support obligation, whether the claim is made in a separate action or as part of a divorce or any other action, shall be scheduled for hearing before the child support hearing officer. The initiating party shall send a notice of the date, time, and place of the hearing to all other parties. Service of process shall be made and notices given as provided by G.S. 1A-1, Rules of Civil Procedure.

(b) Place of hearing. The hearing before the child support hearing officer need not take place in a courtroom, but shall be conducted in an appropriate judicial setting.

(c) Hearing procedures. The hearing of a case before a child support hearing officer is without a jury. The rules of evidence applicable in the trial of civil actions generally are observed; however, the hearing officer may require the parties to produce and may consider financial affidavits, State and federal tax returns, and other financial or employment records. Except as otherwise provided in this Article, the hearing officer shall determine the parties' child support rights and obligations and enter an appropriate order based on the evidence and the child support laws of the State. All parties shall be provided with a copy of the order.

(d) Record of proceeding. The record of a proceeding before a child support hearing officer shall consist of the pleadings filed in the child support case, documentation of proper service or notice or waiver, and a copy of the hearing officer's order. No verbatim recording or transcript shall be required or provided at State expense.

(e) Transfer to district court judge. Upon his own motion or upon motion of any party, the hearing officer shall transfer a case for hearing before a district court judge when the case involves:

(1) a contested paternity action;

(2) a custody dispute;

- (3) contested visitation rights;
- (4) the ownership, possession, or transfer of an interest in property to satisfy a child support obligation; or
- (5) other complex issues.

Upon ordering such a transfer, except in cases of contested paternity, the hearing officer shall also enter a temporary order that provides for the payment of a money amount or otherwise addresses the child's need for support pending the resolution of the case by the district court judge. The chief district court judge shall establish a procedure for such transferred cases to be given priority for hearing before a district court judge.

“§ 50-37. *Enforcement authority of child support hearing officer; contempt.*—When a child support case is before a child support hearing officer for enforcement of a child support order, the hearing officer has the same authority that a district court judge would have, except in cases of contempt. Orders that commit a party to jail for civil or criminal contempt for the nonpayment of child support, or for otherwise failing to comply with a child support order, may be entered only by a district court judge. When it appears to a hearing officer that there is probable cause for finding such contempt in a case before the child support hearing officer and that no other enforcement remedy would be effective or sufficient, the hearing officer shall enter an order finding probable cause and referring the case for hearing before a district court judge. The order may indicate the amount of payment the responsible parent may make, or other action he may take, or both, to comply with the child support order. If proof of compliance is made to the hearing officer within a time specified in the order, the hearing officer may cancel the referral of the contempt case to district court. Except as specifically limited by this section, a clerk or magistrate acting as a child support hearing officer retains all of the contempt powers he or she otherwise has by virtue of being a clerk or magistrate.

“§ 50-38. *Appeal from orders of the child support hearing officer.*—(a) Appeal; hearing *de novo*. Any party may appeal an order of a child support hearing officer for a hearing *de novo* before a district court judge by giving notice of appeal at the hearing or in writing within 10 days after entry of judgment. Upon appeal noted, the clerk of superior court shall place the case on the civil issue docket of the district court. The chief district court judge shall establish a procedure for such transferred cases to be given priority for hearing before a district court judge. Unless appealed from, the order of the hearing officer is final.

(b) Order not stayed pending appeal. Appeal from an order of a child support hearing officer does not stay the execution or enforcement of the order unless, on application of the appellant, a district court judge orders such a stay.

“§ 50-39. *Qualifications of child support hearing officer.*—(a) Qualifications. A clerk or assistant clerk of superior court or a magistrate, to be designated and serve as a child support hearing officer, shall satisfy each of the following qualifications:

- (1) Be at least 21 years of age and not older than 70 years of age, and have a high school degree or its equivalent.

- (2) Be qualified by training and temperament to be effective in relating to parties in child support cases and in conducting hearings fairly and efficiently.
- (3) Be certified by the Administrative Office of the Courts as having completed the training required by subsection (b).
- (4) Establish that he has one of the following qualifications:
 - a. election or appointment as the Clerk of Superior Court; or
 - b. three years experience as an assistant clerk of superior court working in child support or related matters; or
 - c. six years experience as an assistant clerk of superior court; or
 - d. four years experience as a magistrate whose duties have included, in substantial part, the disposition of civil matters; or
 - e. pursuant to G.S. 7A-171.1, five to seven years eligibility for pay as a magistrate; or
 - f. three years experience working in the field of child support enforcement or a related field.

(b) Training required. Before a clerk or assistant clerk or a magistrate may conduct hearings as a child support hearing officer he must satisfactorily complete a course of instruction in the conduct of such hearings established by the Administrative Office of the Courts. The Administrative Office of the Courts shall establish a course in the conduct of such hearings. The Administrative Office of the Courts may contract with qualified educational organizations to conduct the course of instruction and must reimburse the clerks or magistrates attending for travel and subsistence incurred in taking such training."

Sec. 2. Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-178. *Magistrate as child support hearing officer.*—A magistrate who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50."

Sec. 3. Chapter 7A of the General Statutes is amended by adding a new section to read as follows:

"§ 7A-183. *Clerk or assistant clerk as child support hearing officer.*—A clerk or assistant clerk of superior court who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50."

Sec. 4. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 2138

CHAPTER 994

AN ACT TO SET A CONVENING DATE FOR THE 1987 SESSION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. The 1987 regular session of the Senate and House of Representatives shall be held beginning on the second Monday in February of 1987 at 1:00 p.m.

Sec. 2. G.S. 120-11.1 shall not apply to the 1987 regular session.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 2084

CHAPTER 995

AN ACT TO CLARIFY THE AUTHORITY TO TRANSFER RIGHTS IN HOSPITAL FACILITIES TO AN AHEC PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-8.1(c) is amended by deleting the last sentence and substituting: "The municipality or hospital authority may convey all ownership rights in the hospital facility, or any part thereof, to the local AHEC Program without monetary consideration. Further, the municipality or hospital authority may reimburse the local AHEC Program for any funds used for the original construction of any office for AHEC provided by AHEC to establish or continue the hospital facility."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 2110

CHAPTER 996

AN ACT TO ESTABLISH A PENALTY FOR DAMAGE TO ARTIFICIAL REEFS AND MARKING DEVICES TO IDENTIFY REEFS.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-266. *Interference with artificial reef marking devices.*—It shall be a general misdemeanor, punishable in the discretion of the court pursuant to G.S. 14-3, for any person to destroy, injure, relocate, or remove any navigational aids, buoys, markers, or other devices lawfully set out by the Division of Marine Fisheries in connection with the marking of any artificial reef in the coastal waters of the State and in the Atlantic Ocean to the seaward extent of the State's jurisdiction as now or hereafter defined."

Sec. 2. G.S. 113-264(b) is amended by deleting the word "Willful" and substituting the following phrase before the word "removal":

"Unless a different level of punishment is elsewhere set out, willful".

Sec. 3. G.S. 113-265(e) is amended by addition after the words "fishing or fishery" of the following:

" , except as provided in G.S. 113-266,".

Sec. 4. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 978

CHAPTER 997

AN ACT TO AMEND G.S. 20-127.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127(e) is amended by deleting "January 1, 1987" and substituting "October 1, 1987".

Sec.2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

S.B. 595

CHAPTER 998

AN ACT TO ESTABLISH FAIR TREATMENT FOR CRIME VICTIMS AND WITNESSES.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Subchapter VIII of Chapter 15A of the General Statutes to read:

"ARTICLE 45.

"Fair Treatment for Victims and Witnesses.

"§ 15A-824. *Definitions.*—As used in this Article, unless the context clearly requires otherwise:

(1) 'Crime' means a felony or an act committed by a juvenile that, if committed by a competent adult, would constitute a felony.

(2) 'Family member' means a spouse, child, parent or legal guardian, or the closest living relative.

(3) 'Victim' means a person against whom there is probable cause to believe a crime has been committed.

(4) 'Witness' means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action concerning a felony, or who by reason of having relevant information is subject to being called or is likely to be called as a witness for the prosecution in such an action, whether or not an action or proceeding has been commenced.

"§ 15A-825. *Treatment due victims and witnesses.*—To the extent reasonably possible and subject to available resources, the employees of law enforcement agencies, the prosecutorial system, the judicial system, and the correctional system should make a reasonable effort to assure that each victim and witness within their jurisdiction:

(1) Is provided information regarding immediate medical assistance when needed and is not detained for an unreasonable length of time before having such assistance administered.

(2) Is provided information about available protection from harm and threats of harm arising out of cooperation with law enforcement prosecution efforts, and receives such protection.

(3) Has any stolen or other personal property expeditiously returned by law enforcement agencies when it is no longer needed as evidence, and its return would not impede an investigation or prosecution of the case. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property whose ownership is disputed, should be photographed and returned to the owner within a reasonable period of time of being recovered by law enforcement officials.

(4) Is provided appropriate employer intercession services to seek the employer's cooperation with the criminal justice system and minimize the employee's loss of pay and other benefits resulting from such cooperation whenever possible.

(5) Is provided, whenever practical, a secure waiting area during court proceedings that does not place the victim or witness in close proximity to defendants and families or friends of defendants.

(6) Is informed of the procedures to be followed to apply for and receive any appropriate witness fees or victim compensation.

(7) Is given the opportunity to be present during the final disposition of the case or is informed of the final disposition of the case, if he has requested to be present or be informed.

(8) Is notified, whenever possible, that a court proceeding to which he has been subpoenaed will not occur as scheduled.

(9) Has a victim impact statement prepared for consideration by the court.

(10) Is informed that civil remedies may be available and that statutes of limitation apply in civil cases.

(11) Is notified before a proceeding is held at which the release of the offender from custody is considered, if the crime for which the offender was placed in custody is a Class G or more serious felony.

(12) Is notified if the offender escapes from custody or is released from custody, if the crime for which the offender was placed in custody is a Class G or more serious felony.

(13) Has family members of a homicide victim offered all the guarantees in this section, except those in subdivision (1).

"§ 15A-826. *Victim and witness assistants.*—Victim and witness assistants are responsible for coordinating efforts within the law enforcement and judicial systems to assure that each victim and witness is treated in accordance with this Article.

"§ 15A-827. *Scope.*—This Article does not create any civil or criminal liability on the part of the State of North Carolina or any criminal justice agency, employee, or volunteer."

Sec. 2. Article 29 of Chapter 7A of the General Statutes is amended by adding two new sections to read:

"§ 7A-347. *Victim and witness assistants.*—Victim and witness assistant positions are established under the District Attorneys Offices.

Each prosecutorial district is allocated at least one victim and witness assistant to be employed by the district attorney. The Administrative Office of the Courts shall allocate additional victim and witness assistants to prosecutorial districts on the basis of need and within available appropriations. Each district attorney may also use any volunteer or other personnel to assist the victim and witness assistant. The victim and witness assistant is responsible for coordinating efforts of the law enforcement and judicial systems to assure that each victim and witness is provided fair treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and Witnesses and shall be used for no other purpose, except as may be approved pursuant to G.S. 7A-348.

“§ 7A-348. *Training and supervision of victim and witness assistants.*—Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

(1) assist in establishing uniform statewide training for the victim and witness assistants;

(2) assist in the implementation and supervision of this program; and

(3) with the Director of the Administrative Office of the Courts, report annually to the Joint Legislative Commission on Governmental Operations on the implementation and effectiveness of this act, beginning on or before February 1, 1987.”

Sec. 3. The witness assistant coordinator positions established by G.S. 7A-69.1 are allocated to the districts listed in that section. The positions transferred by this section are subject to the provisions of G.S. 7A-347. Following the transfer of the positions, G.S. 7A-69.1 is repealed.

Sec. 4. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of four hundred nineteen thousand thirty-eight dollars (\$419,038) for fiscal year 1986-87 to fund victim and witness assistant positions and training created by this act. The funds to implement the provisions of this act are provided by probation and parole supervision fees imposed under G.S. 15A-1343, 15A-1374, and 148-65.1, as amended by Chapter 859 of the 1985 Session Laws (1986 Regular Session).

Sec. 5. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 829

CHAPTER 999

AN ACT TO DETER ORGANIZED CRIMINAL ACTIVITY AND CONVERT THE VARIOUS PROPERTIES AND PROPERTY RIGHTS EMPLOYED THEREIN TO PUBLIC PURPOSES BY IMPOSING CIVIL SANCTIONS ON RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter of the North Carolina General Statutes is hereby enacted to read as follows:

“CHAPTER 75D.

“RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

Sec.

- 75D-1. Short title.
- 75D-2. Findings and intent of General Assembly.
- 75D-3. Definitions.
- 75D-4. Prohibited activities.
- 75D-5. RICO Civil Forfeiture proceedings.
- 75D-6. Power to compel examination.
- 75D-7. False testimony.
- 75D-8. Available civil remedies.
- 75D-9. Period of limitations as to civil proceedings under this Chapter.
- 75D-10. Civil remedies are supplemental and not mutually exclusive.
- 75D-11. Reciprocal agreements with other states.
- 75D-12. Venue.
- 75D-13. Filing and attachment of RICO lien notice.
- 75D-14. Release of lien.

“§ 75D-1. *Short title.*—This Chapter shall be known and may be cited as the North Carolina Racketeer Influenced and Corrupt Organizations Act (RICO).

“§ 75D-2. *Findings and intent of General Assembly.*—(a) The General Assembly finds that a severe problem is posed in this State by the increasing organization among certain unlawful elements and the increasing extent to which organized unlawful activities and funds acquired as a result of organized unlawful activity are being directed to and against the legitimate economy of the State.

(b) The General Assembly declares that the purpose and intent of this Chapter is: to deter organized unlawful activity by imposing civil equitable sanctions against this subversion of the economy by organized unlawful elements; to prevent the unjust enrichment of those engaged in organized unlawful activity; to restore to the general economy of the State all of the proceeds, money, profits, and property, both real and personal of every kind and description which is owned, used or acquired through organized unlawful activity by any person or association of persons whether natural, incorporated or unincorporated in this State; and to provide compensation to private persons injured by organized unlawful activity. It is not the intent of the General Assembly to in any way interfere with the attorney-client relationship.

(c) It is not the intent of the General Assembly that this Chapter apply to isolated and unrelated incidents of unlawful conduct but only to an interrelated pattern of organized unlawful activity, the purpose or effect of which is to derive pecuniary gain. Further, it is not the intent of the General Assembly that legitimate business organizations doing business in this State, having no connection to, or any relationship or involvement with organized unlawful elements, groups or activities be subject to suit under the provisions of this Chapter.

“§ 75D-3. *Definitions.*—As used in this Chapter, the term:

(a) 'Enterprise' means any person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this State, or other legal entity; or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental as well as other entities.

(b) 'Pattern of racketeering activity' means engaging in at least two incidents of racketeering activity that have the same or similar purposes, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated and unrelated incidents, provided at least one of such incidents occurred after October 1, 1986, and that at least one other of such incidents occurred within a four-year period of time of the other, excluding any periods of imprisonment, after the commission of a prior incident of racketeering activity.

(c)

(1) 'Racketeering activity' means to commit, to attempt to commit, or to solicit, coerce, or intimidate another person to commit an act or acts which would be chargeable by indictment if such act or acts were accompanied by the necessary *mens rea* or criminal intent under the following laws of this State:

a. Article 5 of Chapter 90 of the General Statutes of North Carolina relating to controlled substances and counterfeit controlled substances;

b. Chapter 14 of the General Statutes of North Carolina except Articles 9, 22A, 38, 40, 43, 46, 47, 59 thereof; and further excepting G.S. Sections 14-78.1, 14-82, 14-86, 14-145, 14-146, 14-147, 14-177, 14-178, 14-179, 14-183, 14-184, 14-186, 14-190.9, 14-195, 14-197, 14-201, 14-202, 14-247, 14-248, 14-313 thereof.

c. Any conduct involved in a 'money laundering' activity; and

(2) 'Racketeering activity' also includes the description in Title 18, United States Code, Section 1961(1).

(d) 'Documentary material' means any book, paper, document, writing, drawing, graph, chart, photograph, phonocord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form, or other tangible item.

(e) 'RICO lien notice' means the notice described in G.S. 75D-13.

(f) 'Attorney General' means the Attorney General of North Carolina or any employee of the Department of Justice designated by him in writing. Any district attorney of this State, with his consent, may be designated in writing by the Attorney General to enforce the provisions of this Chapter.

(g)

(1) 'Beneficial interest' means either of the following:

a. The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

b. The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person

holds legal or record title to real property for the benefit of such person.

- (2) 'Beneficial interest' does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(h) 'Real property' means any real property situated in this State or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(i)

- (1) 'Trustee' means either of the following:

- a. Any person who holds legal or record title to real property for which any other person has a beneficial interest; or
- b. Any successor trustee or trustees to any of the foregoing persons.

- (2) 'Trustee' does not include the following:

- a. Any person appointed or acting as a personal representative under Chapter 33 of the General Statutes relating to guardian and ward, or under Chapter 28A of the General Statutes relating to the administration of estates; or
- b. Any person appointed or acting as a trustee of any testamentary trust or as trustee of any indenture of trust under which any bonds are to be issued.

(j) 'Criminal proceeding' means any criminal action commenced by the State for a violation of any provision of those criminal laws referred to in G.S. 75D-3(c).

(k) 'Civil proceeding' means any civil proceeding commenced by the Attorney General or an injured person under any provision of this Chapter.

"§ 75D-4. *Prohibited activities.*—(a) No person shall:

- (1) engage in a pattern of racketeering activity or, through a pattern of racketeering activities or through proceeds derived therefrom, acquire or maintain, directly or indirectly, any interest in or control of any enterprise, real property, or personal property of any nature, including money; or
- (2) conduct or participate in, directly or indirectly, any enterprise through a pattern of racketeering activity whether indirectly, or employed by or associated with such enterprise; or
- (3) conspire with another or attempt to violate any of the provisions of subdivision (1) or (2) of this subsection.

(b) Violation of this section is inequitable and constitutes a civil offense only and is not a crime, therefore a *mens rea* or criminal intent is not an essential element of any of the civil offenses set forth in this section.

"§ 75D-5. *RICO civil forfeiture proceedings.*—(a) All property of every kind used or intended for use in the course of, derived from, or realized through a racketeering activity or pattern of racketeering activity is subject to forfeiture to the State. Forfeiture shall be had by a civil procedure known as a RICO forfeiture proceeding.

(b) A RICO forfeiture proceeding shall be governed by Chapter 1A of the General Statutes of North Carolina except to the extent that special rules of procedure are stated in this Chapter.

(c) A RICO forfeiture proceeding shall be an *in rem* proceeding against the property.

(d) A RICO forfeiture proceeding shall be instituted by complaint and prosecuted only by the Attorney General of North Carolina or his designated representative. The proceeding may be commenced and a final judgment rendered thereon before or after seizure of the property and before or after any criminal conviction of any person for violation of those laws set forth in G.S. 75D-3(c).

(e) If the complaint is filed before seizure, it shall state what property is sought to be forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture, and the names of all persons known to have or claim an interest in the property. The court shall determine *ex parte* whether there is reasonable ground to believe that the property is subject to forfeiture and, if the State so alleges, whether notice to those persons having or claiming an interest in the property prior to seizure would cause the loss or destruction of the property. If the court finds:

- (1) that reasonable ground does not exist to believe that the property is subject to forfeiture, it shall dismiss the complaint; or
- (2) that reasonable ground does exist to believe the property is subject to forfeiture but there is not reasonable ground to believe that prior notice would result in loss or destruction, it shall order service on all persons known to have or claim an interest in the property prior to a further hearing on whether a writ of seizure should issue; or
- (3) that there is reasonable ground to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction, it shall without any further hearing or notice, issue a writ of seizure directing the sheriff of or any other law enforcement officer in the county where the property is found to seize it.

(f) Seizure may be effected by a law enforcement officer authorized to enforce the penal laws of this State prior to the filing of the complaint and without a writ of seizure if the seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to believe the property is subject to forfeiture and will be lost or destroyed if not seized. Within 24 hours of the time of seizure, the seizure shall be reported by the officer to the district attorney of the judicial district in which the seizure is effected who shall immediately report such seizure to the Attorney General. The Attorney General shall, within 30 days after receiving notice of seizure, examine the evidence surrounding such seizure, and if he believes reasonable ground exists for forfeiture under this Chapter, shall file a complaint for forfeiture. The complaint shall state, in addition to the information required in subsection (e) of this section, the date and place of seizure.

(g) After the complaint is filed or the seizure effected, whichever is later, every person known to have or claim an interest in the property, or in the property or enterprise of which the subject property is a part

or represents any interest, shall be served, if not previously served, with a copy of the complaint and a notice of seizure in the manner provided by Chapter 1A of the General Statutes of North Carolina. Service by publication may be ordered upon any party whose whereabouts cannot be determined with reasonable diligence within 30 days of filing of the complaint.

(h)

- (1) Any person claiming an interest in the property, may become a party to the action at any time prior to judgment whether named in the complaint or not. Any party claiming a substantial interest in the property, upon motion may be allowed by the court to take possession of the property upon posting bond with good and sufficient security in double the amount of the property's value conditioned to pay the value of any interest in the property found to be subject to forfeiture or the value of any interest of another not subject to forfeiture.
- (2) The court, upon such terms and conditions as it may prescribe, may order that the property be sold by an innocent party who holds a lien on or security interest in the property at anytime during the proceedings. Any proceeds from such sale over and above the amount necessary to satisfy the lien or security interest shall be paid into court pending final judgment in the forfeiture proceeding. No such sale shall be ordered, however, unless the obligation upon which the lien or security interest is based is in default.
- (3) Pending final judgment in the forfeiture proceeding, the court may make any other disposition of the property necessary to protect it or in the interest of substantial justice, and which adequately protects the interests of innocent parties.

(i) The interest of an innocent party in the property shall not be subject to forfeiture. An innocent party is one who did not have actual or constructive knowledge that the property was subject to forfeiture. An attorney who is paid a fee for representing any person subject to this act, shall be rebuttably presumed to be an innocent party as to that fee transaction.

(j) Subject to the requirement of protecting the interest of all innocent parties, the court may, after judgment of forfeiture, make any of the following orders for disposition of the property:

- (1) Destruction of the property or contraband, the possession of, or use of, which is illegal;
- (2) Retention for official use by a law enforcement agency, the State or any political subdivision thereof. When such agency or political subdivision no longer has use for such property, it shall be disposed of by judicial sale as provided in Article 29A of Chapter 1 of the General Statutes of North Carolina, and the proceeds shall be paid to the State Treasurer;
- (3) Transfer to the Department of Archives and History of property useful for historical or instructional purposes;
- (4) Retention of the property by any innocent party having an interest therein, including the right to restrict sale of an interest

to outsiders, such as a right of first refusal, upon payment or approval of a plan for payment into court of the value of any forfeited interest in the property. The plan may include, in the case of an innocent party who holds an interest in the property through an estate by the entirety, or an undivided interest in the property, or a lien on or security interest in the property, the sale of the property by the innocent party under such terms and conditions as may be prescribed by the court and the payment into court of any proceeds from such sale over and above the amount necessary to satisfy the divided ownership value of the innocent party's interest or the lien or security interest. Proceeds paid into the court must then be paid to the State Treasurer;

- (5) Judicial sale of the property as provided in Article 29A of Chapter 1 of the General Statutes of North Carolina, with the proceeds being paid to the State Treasurer;
- (6) Transfer of the property to any innocent party having an interest therein equal to or greater than the value of the property; or
- (7) Any other disposition of the property which is in the interest of substantial justice and adequately protects innocent parties, with any proceeds being paid to the State Treasurer.

(k) In addition to the provisions of subsections (c) through (g) relating to *in rem* actions, the State may bring an *in personam* action for the forfeiture of any property subject to forfeiture under subsection (a) of this section.

(l) Upon the entry of a final civil judgment of forfeiture in favor of the State:

(1) The title of the State to the forfeited property shall:

- a. In the case of real property or beneficial interest, relate back to the date of filing of the RICO lien notice in the official record of the county where the real property or beneficial interest is located and, if no RICO lien notice is filed, then to the date of the filing of any notice of *lis pendens* in the official records of the county where the real property or beneficial interest is located and, if no RICO lien notice or notice of *lis pendens* is so filed, then to the date of recording of the final judgment of forfeiture in the official records of the county where the real property or beneficial interest is located; and
- b. In the case of personal property, relate back to the date the personal property was seized pursuant to the provisions of this Chapter.

- (2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing of a RICO civil proceeding whichever is earlier, the Attorney General may, on behalf of the State, institute an action in an appropriate court against the person named in the RICO lien notice or the defendant in the civil proceeding and the court shall enter final judgment against the person named in the RICO lien notice or the defendant in the civil proceeding in an amount equal to the fair market value of the property, together with investigative

costs and attorney's fees incurred by the Attorney General in the action.

"§ 75D-6. *Power to compel examination.*—Whenever the Attorney General has reason to believe that any person or enterprise may have information or may be in possession, custody or control of any documentary materials relevant to an activity prohibited under G.S. 75D-4, he may issue in writing, and cause to be served upon such person or upon the appropriate officers, agents, and employees of any such enterprise (other than one employed as an attorney by such person or enterprise), a notice requiring such person or enterprise to submit themselves to examination by him, and produce for his inspection any documentary material relevant to an investigation of activities prohibited by G.S. 75D-4.

The notice shall be served either personally or by registered or certified mail return receipt requested. The notice shall specify the general purpose of the examination, a general description of the documentary material to be produced, and the time and place where such examination will take place. The witness shall be placed under oath or affirmation to testify truthfully. The examination shall be recorded and the witness has the right to a copy upon payment of its cost. The witness has the right to have legal counsel present during the examination.

The Attorney General shall also have the right to apply to any judge of the Superior Court division, after five days' prior notice of such application served in the same manner as the notice of examination described in this section, for an order requiring such person or enterprise to appear and subject himself or itself to examination, and disobedience of such order shall constitute contempt, and shall be punishable as in other cases of disobedience of a proper order of such court.

No such demand or order of a court shall contain any requirement which would be held to be unreasonable if contained in a civil discovery request or court order issued pursuant to G.S. 1A-1, Rules of Civil Procedure 26-36. Any person or enterprise upon whom a demand is served and who objects to complying with such demand in whole or in part, shall, within five days of service of the demand, serve a written reply upon the Attorney General specifying the nature of the objection.

Such examination shall be held *in camera* and no one, except the person or enterprise being examined, may release information obtained from the examination prior to a proceeding being instituted under this Chapter by the Attorney General. Such information may be used in any proceeding instituted under this Chapter by the Attorney General. Any person violating the provisions of this paragraph shall be guilty of a misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000) or imprisoned, or both. If such offending person is a public officer or employee, he shall also be dismissed from such office or employment and shall not hold any public office or employment in this State for a period of five years after conviction. This paragraph does not prohibit disclosure of this information to other employees of the Department of Justice, or to District Attorneys designated in writing by the Attorney General as authorized to receive this information.

"§ 75D-7. *False testimony.*—False testimony as to any material fact by any person examined under the provisions of this Chapter shall constitute

perjury and a conviction shall be punishable as in other cases of perjury as a Class 'H' felony.

"§ 75D-8. *Available RICO civil remedies.*—(a) As part of a final judgment of forfeiture, any judge of the Superior Court may, after giving reasonable notice to potential innocent claimants, enjoin violations of G.S. 75D-4, by issuing appropriate orders and judgments:

- (1) Ordering any defendant to divest himself of any interest in any enterprise, real property, or personal property including property held by the entirety. Where property is held by the entirety and one of the spouses is an innocent person as defined in G.S. 75D-5(i), upon entry of a final judgment of forfeiture of entirety property, the judgment operates, to convert the entirety to a tenancy in common, and only the one-half undivided interest of the offending spouse shall be forfeited according to the provisions of this Chapter;
- (2) Imposing reasonable restrictions upon the future activities or investments of any defendant in the same or similar type of endeavor as the enterprise in which he was engaged in violation of G.S. 75D-4;
- (3) Ordering the dissolution or reorganization of any enterprise;
- (4) Ordering the suspension or revocation of any license, permit, or prior approval granted to any enterprise by any agency of the State;
- (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this State or the revocation of a certificate authorizing a foreign corporation to conduct business within this State upon a finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting affairs of the corporation, has authorized or engaged in conduct in violation of G.S. 75D-4, and that, for the prevention of future unlawful activity, the public interest requires that the charter of the corporation be dissolved or the certificate be revoked;
- (6) Appointment of a receiver pursuant to the provisions of Article 38 of Chapter 1 of the General Statutes of North Carolina, to collect, conserve and dispose of all the proceeds, money, profits and property, both real and personal, subject to the provisions of this Chapter in accordance with the provisions hereof as directed by the final judgment of the superior court having jurisdiction over the parties or subject matter of the action; or
- (7) Any other equitable remedy appropriate to effect complete forfeiture of property subject to forfeiture, or to prevent future violations of this Chapter.

(b) The State through the Attorney General may institute a proceeding under G.S. 75D-5. In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, provided that no showing of special or irreparable damage to the person shall have to be made and provided further that the State shall not be required to execute any bond before or after obtaining temporary restraining orders or preliminary injunctions.

(c) Any innocent person who is injured or damaged in his business or property by reason of any violation of G.S. 75D-4 involving a pattern of racketeering activity shall have a cause of action for three times the actual damages sustained and reasonable attorneys fees. For purposes of this subsection, 'pattern of racketeering activity' shall require that at least one act of racketeering activity be an act of racketeering activity other than (i) an act indictable under 18 U.S.C. § 1341 or U.S.C. § 1343, or (ii) an act which is an offense involving fraud in the sale of securities. Any person filing a private action under this subsection must concurrently notify the Attorney General in writing of the commencement of the action. Thereafter, the Attorney General may file a motion for a protective order in the court where the private action is pending and shall be granted a stay of the private action for a reasonable time if the court finds either:

- (1) he bringing of a private action is likely to materially interfere with or impair a public forfeiture action; or
- (2) the public interest is so great as to require the Attorney General to investigate and bring a forfeiture action.

(d) Any injured innocent person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the State has in the same property or proceeds. To enforce such a claim the injured innocent person must intervene in the forfeiture proceeding prior to its final disposition.

(e) A final conviction in any criminal proceeding for a violation of those laws set forth in G.S. 75D-3(c), shall estop the defendant in any subsequent civil action or proceeding under this Chapter as to all matters proved in the criminal proceeding.

(f) A defendant in an action commenced by the State pursuant to this Chapter whose convictions of two or more criminal offenses of those criminal statutes as set forth in G.S. 75D-3(c) have become final, which offenses have occurred within a four-year period of each other as set forth in G.S. 75D-3(b) shall be deemed to have, *per se* violated the provisions of G.S. 75D-4(a)(1) or (2) as of the date of the second conviction.

(g) Any party is entitled to a jury trial in any action brought under this Chapter.

"§ 75D-9. *Period of limitations as to civil proceedings under this Chapter.*—Notwithstanding any other provision of law, a civil action or proceeding under this Chapter may be commenced within five years after the conduct in violation of a provision of this Chapter terminates or the claim for relief accrues, whichever is later. If a civil action is brought by the State for forfeiture or to prevent any violation of the Chapter, then the running of this period of limitations with respect to any innocent person's claim for relief which is based upon any matter complained of in such action by the State, shall be suspended during the pendency of the action by the State and for two years thereafter.

"§ 75D-10. *Civil remedies are supplemental and not mutually exclusive.*—The application of one civil remedy under this Chapter shall not preclude the application of any other remedy under this Chapter or any other provision of law. Civil remedies under this Chapter are cumulative, supplemental and not exclusive, and are in addition to the

finances, penalties and forfeitures set forth in a final judgment of conviction of a violation of the criminal laws of this State as punishment for violation of the penal laws of this State.

“§ 75D-11. *Reciprocal agreements with other states.*—The Attorney General is authorized to enter into reciprocal agreements with any United States attorney or the attorney general or chief prosecuting attorney of any other state having a civil forfeiture law substantially similar to this Chapter so as to further the purpose of this Chapter.

“§ 75D-12. *Venue.*—In any forfeiture action brought pursuant to this Chapter, the claim for relief shall be considered to have arisen in any county in which an incident of racketeering occurred or in which an interest or control of an enterprise or real or personal property is acquired or maintained. Venue in any private action shall be as provided in Article 7, Chapter 1, of the General Statutes of North Carolina.

“§ 75D-13. *Filing and attachment of RICO lien notice.*—(a) Upon the institution of any proceeding under this Chapter, the Attorney General then or at any time during the pendency of the proceeding may file in the official records of any one or more counties a RICO lien notice. No filing fee or other charge shall be required as a condition for filing the RICO lien notice. The clerk of the superior court shall, upon the presentation of a RICO lien notice, immediately record it in the official records.

(b) The RICO lien shall be signed by the Attorney General or his designee or by a designated district attorney. The notice shall be in such form as the Attorney General prescribes and, in addition to a description of the particular property sought to be forfeited, shall set forth the following information:

- (1) If brought in the name of a person, the name of the person against whom the civil proceeding has been brought. In his discretion, the Attorney General may also name in the RICO lien notice any other aliases, names or fictitious names under which the person may be known;
- (2) If known to the Attorney General the present residence and business addresses of the person named in the RICO lien notice and of the other names set forth in the RICO lien notice;
- (3) A reference to the civil proceeding stating that a proceeding under this Chapter has been brought against the person named in the RICO lien notice, the name of the county or counties where the proceeding has been brought, and, if known to the Attorney General at the time of filing the RICO lien notice, the case number of the proceeding;
- (4) A statement that the notice is being filed pursuant to this Chapter; and
- (5) The name and address of the person in the Attorney General's office filing the RICO lien notice and the name of the individual signing the RICO lien notice.

(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any aliases, fictitious names, or other names, including names of corporations, partnerships, or other entities, to the extent permitted in

paragraph (1) of subsection (b) of this section. A separate RICO lien notice shall be filed for any other person against whom the Attorney General desires to file a RICO lien notice under this section.

(d) The Attorney General shall, as soon as practicable after the filing of each RICO lien notice, serve, by any method provided for by G.S. 1A-1, Rule 4, upon the person named in the notice and any other person who holds an interest of record, either a copy of the recorded notice or a copy of the notice with a notation thereon of the county or counties in which the notice has been recorded.

(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of the State on the following property of the person named in the notice and against any other names sets forth in the notice:

- (1) Any real property situated in the county where the notice is filed then or thereafter owned by the person or under any of the names; and
- (2) Any beneficial interest situated in the county where the notice is filed then or thereafter owned by the person or under any of the names.

(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and shall continue thereafter until expiration, termination, or release pursuant to G.S. 75D-14. The lien created in favor of the State shall be superior and prior to the interest of any other person in the real property or beneficial interests if the interest is acquired subsequent to the filing of the notice.

(g) In conjunction with any proceedings pursuant to this Chapter:

- (1) The Attorney General may file without prior court order in any county a *lis pendens* and, in such case, any person acquiring an interest in the subject real property or beneficial interest subsequent to the filing of *lis pendens*, shall take the interest subject to the civil proceeding and any subsequent judgment of forfeiture; and
- (2) If a RICO lien notice has been filed, the Attorney General may name as defendants, in addition to the person named in the notice, any persons acquiring an interest in the real property or beneficial interest subsequent to the filing of the notice. If a judgment of forfeiture is entered in the proceeding in favor of the State, the interest of any person in the property that was acquired subsequent to the filing of the notice shall be subject to the notice and judgment of forfeiture.

(h)

- (1) A trustee upon whom a RICO lien notice or a RICO civil proceeding has been served shall immediately furnish to the Attorney General the following:

- a. The name and addresses, as known to the trustee, of all persons for whose benefit the trustee holds title to the real property; and
- b. If requested by the Attorney General's office, a copy of the trust agreement or other instrument pursuant to which the trustee holds legal or record title to the real property.

(2) Any trustee who fails to comply with the provisions of this subsection shall be removed by court order and a substitute trustee shall be named in lieu of the trustee so removed.

(i) The filing of a RICO lien notice shall not affect the use to which real property or a beneficial interest owned by the person named in the RICO lien notice may be put or in the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership, but not the sale, of the property until a judgment of forfeiture is entered.

(j) All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons.

“§ 75D-14. *Release of lien notice.*— The Attorney General filing the RICO lien notice, or the court for good cause shown at anytime, may release in whole or in part any RICO lien notice or may release any specific property or beneficial interest from the RICO lien notice upon such terms and conditions as he may determine. Any release of a RICO lien notice executed by the Attorney General or ordered by the court may be filed in the official records of any county. No charge or fee shall be imposed for the filing of any release of a RICO lien notice.”

Sec. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 3. This act shall become effective October 1, 1986 and shall expire October 1, 1989.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 2081

CHAPTER 1000**AN ACT TO EXPAND THE NORTH CAROLINA CENTER FOR MISSING CHILDREN TO INCLUDE MISSING PERSONS.**

The General Assembly of North Carolina enacts:

Section 1. Part 5A of Chapter 143B is amended by rewriting that Part to read:

“Part 5A.

“North Carolina Center for Missing Persons.

“§ 143B-495. *North Carolina Center for Missing Persons established.*—There is established within the Department of Crime Control and Public Safety the North Carolina Center for Missing Persons, which shall be organized and staffed in accordance with applicable laws. The purpose of the Center is to serve as a central repository for information regarding missing persons and missing children, with special emphasis on missing children. The Center may utilize the Federal Bureau of Investigation/National Crime Information Center’s missing person computerized file (hereinafter referred to as FBI/NCIC) through the use of the Police Information Network in the North Carolina Department of Justice.

“§ 143B-496. *Definitions.*—For the purposes of this act:

(1) ‘Missing child’ means a juvenile as defined in G.S. 7A-517(20) whose location has not been determined, who has been reported as missing to a law enforcement agency, and whose parent’s, spouse’s, guardian’s, or legal custodian’s temporary or permanent residence is in North Carolina or is believed to be in North Carolina.

(2) ‘Missing person’ means any individual who is 18 years of age or older, whose temporary or permanent residence is in North Carolina, or is believed to be in North Carolina, whose location has not been determined, and who has been reported as missing to a law enforcement agency.

(3) ‘Missing person report’ is a report prepared on a prescribed form for transmitting information about a missing person or a missing child to an appropriate law enforcement agency.

“§ 143B-497. *Control of the Center.*—The Center is under the direction of the Secretary of the Department of Crime Control and Public Safety and may be organized and structured in a manner as the Secretary deems appropriate to ensure that the objectives of the Center are achieved. The Secretary may employ those Center personnel as the General Assembly may authorize and provide funding for.

“§ 143B-498. *Secretary to adopt rules.*—The Secretary shall adopt rules prescribing:

(1) procedures for accepting and disseminating information maintained at the Center;

(2) the confidentiality of the data and information, including the missing person report, maintained by the Center;

(3) the proper disposition of all obsolete data, including the missing person report; provided, data for an individual who has reached the age of 18 and remains missing must be preserved;

(4) procedures allowing a communication link with the Police Information Network and the FBI/NCIC’s missing person file to ensure compliance with FBI/NCIC policies; and

(5) forms, including but not limited to a missing person report, considered necessary for the efficient and proper operation of the Center.

“§ 143B-499. *Submission of missing person reports to the Center.*—Any parent, spouse, guardian, or legal custodian may submit a missing person report to the Center of any missing child or missing person, regardless of the circumstances, after having first submitted a missing person report on the individual to the law enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing, regardless of the circumstances.

“§ 143B-499.1. *Dissemination of missing persons data by law enforcement agencies.*—A law enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, or legal custodian, shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law enforcement agencies

to be on the lookout for the individual, and transmit a copy of the report to the Center.

“§ 143B-499.2. *Responsibilities of Center.*—The Center shall:

(1) Assist local law enforcement agencies with entering data about missing persons or missing children into the national missing persons file, ensure that proper entry criteria have been met as set forth by the FBI/NCIC, and confirm entry of the data about the missing persons or missing children;

(2) Gather and distribute information and data on missing children and missing persons;

(3) Encourage research and study of missing children and missing persons, including the prevention of child abduction and the prevention of the exploitation of missing children;

(4) Serve as a statewide resource center to assist local communities in programs and initiatives to prevent child abduction and the exploitation of missing children;

(5) Continue increasing public awareness of the reasons why children are missing and vulnerability of missing children;

(6) Achieve maximum cooperation with other agencies of the State, with agencies of other states and the federal government and with the National Center for Missing and Exploited Children in rendering assistance to missing children and missing persons and their parents, guardians, spouses, or legal custodians; and cooperate with interstate and federal efforts to identify deceased individuals;

(7) Forward the appropriate information to the Police Information Network to assist it in maintaining and publishing a bulletin of currently missing children and missing persons;

(8) Maintain a directory of existing public and private agencies, groups, and individuals that provide effective assistance to families in the areas of prevention of child abduction, location of missing children and missing persons, and follow-up services to the child or person and family, as determined by the Secretary of Crime Control and Public Safety;

(9) Annually compile and publish reports on the actual number of children and persons missing each year, listing the categories and causes, when known, for the disappearances;

(10) Provide follow-up referrals for services to missing children or persons and their families;

(11) Maintain a toll-free 1-800 telephone service that will be in service at all times; and

(12) Perform such other activities that the Secretary of Crime Control and Public Safety considers necessary to carry out the intent of its mandate.

“§ 143B-499.3. *Duty of individuals to notify Center and law enforcement agency when missing person has been located.*—Any parent, spouse, guardian, or legal custodian who submits a missing person report to a law enforcement agency or to the Center, shall immediately notify the law enforcement agency and the Center of any individual whose location has been determined. The Center shall confirm the deletion of the individual's records from the FBI/NCIC's missing person file, as long as there are no

grounds for criminal prosecution, and follow up with the local law enforcement agency having jurisdiction of the records.

“§ 143B-499.4. *Release of information by Center.*—The following may make inquiries of, and receive data or information from, the Center:

(1) Any police, law enforcement, or criminal justice agency investigating a report of a missing or unidentified person or child, whether living or deceased.

(2) A court, upon a finding by the court that access to the data, information, or records of the Center may be necessary for the determination of an issue before the court.

(3) Any district attorney of a judicial district in this State or the district attorney's designee or representative.

(4) Any person engaged in bona fide research when approved by the Secretary; provided, no names or addresses may be supplied to this person.

(5) Any other person authorized by the Secretary of the Department of Crime Control and Public Safety pursuant to G.S. 243B-498(1).

“§ 143B-499.5. *Provision of toll-free service; instructions to callers; communication with law enforcement agencies.*—The Center shall provide a toll-free telephone line for anyone to report the disappearance of any individual or the sighting of any missing child or missing person. The Center personnel shall instruct the caller, in the case of a report concerning the disappearance of an individual, of the requirements contained in G.S. 143B-499.3 of first having to submit a missing person report on the individual to the law enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing. Any law enforcement agency may retrieve information imparted to the Center by means of this phone line. The Center shall directly communicate any report of a sighting of a missing person or a missing child to the law enforcement agency having jurisdiction in the area of disappearance or sighting.

“§ 143-499.6. *Improper release of information; penalty.*—Any person working under the supervision of the Director of Victims and Justice Services who knowingly and willfully releases, or authorizes the release of, any data, information, or records maintained or possessed by the Center to any agency, entity, or person other than as specifically permitted by Part 5A or in violation of any rule adopted by the Secretary is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), imprisonment of no less than 30 days nor more than 90 days, or both.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 2140

CHAPTER 1001

AN ACT TO ELIMINATE CERTIFICATES OF NEED FOR LITHOTRIPTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-178(a) is amended by adding the following sentence at the end:

"No person, acute care hospital, or outpatient facility shall be required to obtain a certificate of need for the acquisition of a lithotripter or for the development, offering, or operation of a lithotripsy service."

Sec. 2. G.S. 131E-176(16)g. is amended by deleting the phrase "and lithotripters".

Sec. 3. If any phrase or clause of this act is declared unconstitutional by a court of competent jurisdiction, it shall not affect the validity of the remainder of this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.

H.B. 286

CHAPTER 1002

AN ACT TO PROTECT THE CONFIDENTIALITY OF FINANCIAL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter 53B to read:

"CHAPTER 53B.
"FINANCIAL PRIVACY ACT.

"§ 53B-1. *Short title.*—This act may be cited as the North Carolina Financial Privacy Act.

"§ 53B-2. *Definitions.*—As used in this Chapter, unless the context otherwise requires, the term:

(1) 'Customer' means a person who has transacted business with a financial institution or has used the services offered by a financial institution.

(2) 'Financial institution' means a banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in the business of lending money or receiving or soliciting money on deposit.

(3) 'Financial record' means an original of, a copy of, or information derived from, a record held by a financial institution pertaining to a customer's relationship with the financial institution and identified with or identifiable with the customer.

(4) 'Government authority' means an agency or department of the State or of any of its political subdivisions, including any officer, employee, or agent thereof.

(5) 'Government inquiry' means a lawful investigation by a government agency or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute, law, or rule.

(6) 'Supervisory agency' means a State agency or department having the statutory authority to examine the financial condition or business operation of a financial institution.

"§ 53B-3. *Public policy.*—It is the policy of this State that financial records should be treated as confidential and that no financial institution may provide to any government authority and no government authority may have access to any financial records except in accordance with the provisions of this Chapter.

"§ 53B-4. *Access to financial records.*—Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to:

(1) Customer authorization that meets the requirements of the Right to Financial Privacy Act § 1104, 12 U.S.C. § 3404, provided, however, a customer authorization received by a State agency or a county department of social services for the purpose of determining eligibility for the programs of public assistance under Chapter 108A of the General Statutes, or for purposes of a government inquiry concerning these same programs of public assistance, cannot be revoked and shall remain valid for twelve months unless a shorter period is specified in the authorization, or a customer authorization that is given by a licensed attorney with respect to an account in which the attorney holds funds as a fiduciary;

(2) Authorization under G.S. 105-251, 105-251.1, or 105-258;

(3) Search warrant as provided in Article 11 of Chapter 15A of the General Statutes;

(4) Statutory authority of a supervisory agency to examine or have access to financial records in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution;

(5) The authority granted under G.S. 116B-39;

(6) Examination and review by the State Auditor or his authorized representative under G.S. 147-64.6(c)(9) or 147-64.7(a);

(7) Request by a government authority authorized to buy and sell student loan notes under Article 23 of Chapter 116 of the General Statutes for financial records relating to insured student loans;

(8) Pending litigation to which the government authority and the customer are parties;

(9) Subpoena or court order in connection with a grand jury proceeding;

(10) A writ of execution under Article 28 of Chapter 1 of the General Statutes; or

(11) Other court order or administrative or judicial subpoena authorized by law if the requirements of G.S. 53B-5 are met.

As used in this section, the term 'reasonable specificity' means that degree of specificity reasonable under all the circumstances, and may include designation by general type or class as authorized in G.S. 116B-39.

“§ 53B-5. *Service on customer certification.*—A government authority may have access to a customer's financial record pursuant to G.S. 53B-4(11) only if:

(1) The court order or subpoena describes with reasonable specificity the financial record to which access is sought;

(2) A copy of the court order or subpoena has been served on the customer pursuant to G.S. 1A-1, Rule 4 (J) of the N.C. Rules of Civil Procedure and the court order or subpoena states the name of the government authority seeking access to the financial record and the purpose for which access is sought;

(3) The following notice has been served on the customer pursuant to G.S. 1A-1, Rule 4 (J) of the N.C. Rules of Civil Procedure together with the court order or subpoena:

‘Records or information held by the financial institution named in the attached process are being sought by government authority in accordance with the North Carolina Financial Privacy Act. You may have rights under the act to challenge access to the records or information. You must, however, act within 10 days from the date this notice was served on you to make a challenge in court or the records or information will be made available. You may wish to employ an attorney to represent you and protect your rights.’;

(4) The customer has not challenged the court order or subpoena within 10 days after service;

(5) The government authority has certified in writing to the financial institution that it has complied with the applicable provisions of this Chapter.

“§ 53B-6. *Delayed notice.*—Upon application of a government authority, a superior court judge may order that the customer notice required by G.S. 53B-5 be delayed if the court finds there is reason to believe that:

(1) The financial record to which access is sought is relevant to a legitimate government inquiry; and

(2) Notice to the customer will:

- a. Endanger life or physical safety of any person;
- b. Result in flight from prosecution;
- c. Lead to intimidation of a witness;
- d. Result in destruction of or tampering with evidence; or
- e. Otherwise seriously jeopardize the government inquiry or an official proceeding or investigation.

A court order granting delay of notice to a customer under this section shall set out the specific facts supporting its findings, specify the period of delay, and direct that the government authority shall serve on the customer at the end of that period a copy of the court order or subpoena and a notice that the records have been furnished.

“§ 53B-7. *Customer challenge.*—(a) Within 10 days after service of a court order or subpoena under this Chapter a customer may apply to the superior court of the county in which he resides for an order quashing or modifying the court order or subpoena. The customer shall deliver or mail a copy of the application to the government authority and the financial institution named in the court order or subpoena. The superior court shall grant or deny the application within 10 days after it is filed.

(b) Nothing in this Chapter affects the right of a financial institution to challenge a request for financial records by a government authority under existing law.

“§ 53B-8. *Disclosure of financial records.*—No financial institution or its officer, employee, or agent may disclose a customer's financial record to a government authority except as provided in this Chapter. This section does not prohibit a financial institution from giving notice of or disclosing a financial record to a government authority, as defined in G.S. 53B-2(4), to the same extent as is authorized with respect to federal government authorities in the Right to Financial Privacy Act § 1103(d), 12 U.S.C. § 3403(d). Nothing in this Chapter shall prohibit a financial institution from notifying a government authority that it has information that may be relevant to a possible violation of law or regulation, or from disclosing to a government authority only the name, address, account number, and type of account of any customer.

“§ 53B-9. *Duty of financial institutions; fee; limitation of liability.*—(a) Upon service of a subpoena or court order pursuant to G.S. 53B-4(1), (3), (9), or (11) and receipt of certification pursuant to G.S. 53B-5(5), a financial institution shall locate the financial records requested and prepare to make them available to the government authority seeking access to them. Upon receipt of notice that a customer has challenged the court order or subpoena, the financial institution may suspend its efforts to make the records available until after final disposition of the challenge.

(b) Upon receipt of access to financial records pursuant to G.S. 53B-4(1), (3), (9), or (11), a government authority shall pay the financial institution that provided the financial records a fee for costs directly incurred in assembling and delivering the financial records. The fee shall be at the rate established pursuant to the Right to Financial Privacy Act § 1115(a), 12 U.S.C. § 3415, and 12 C.F.R. 219.

(c) A financial institution that discloses a financial record pursuant to this Chapter in good faith reliance upon certification by a government authority pursuant to G.S. 53B-5(5) is not liable for damages resulting from the disclosure.

“§ 53B-10. *Penalty.*—(a) Any financial institution disclosing financial records or information contained therein in violation of this Chapter shall be liable to the customer to whom the records relate in an amount equal to the sum of:

- (1) One thousand dollars (\$1,000);
- (2) Any actual damages sustained by the customer as a result of the disclosure; and
- (3) Such punitive damages as the court may allow, where the violation is found to have been willful or intentional.

(b) Any government authority that participates in or induces or solicits a violation of this Chapter shall be liable to the customer to whom the violation relates in the amount set out in subsection (a) above. It shall be a defense to an action under this Subsection that the government authority acted in good faith in obtaining and relying upon process issued pursuant to G.S. 53B-4”.

Sec. 2. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 14th day of July, 1986.

H.B. 1458

CHAPTER 1003**AN ACT TO CREATE A JOINT LEGISLATIVE COMMISSION ON MUNICIPAL INCORPORATIONS, TO REVIEW PROPOSALS TO INCORPORATE NEW MUNICIPALITIES.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 120 of the General Statutes is amended by adding a new Article to read:

“Article 20.

“Joint Legislative Commission on Municipal Incorporations.

“Part 1. Organization.

“§ 120-158. *Creation of Commission.*—(a) There is created the Joint Legislative Commission on Municipal Incorporations, referred to in this Article as ‘Commission’.

(b) The Commission shall consist of six members, appointed as follows:

- (1) Two Senators appointed by the President of the Senate;
- (2) Two House members appointed by the Speaker;
- (3) One city manager or elected city official, appointed by the President of the Senate from a list of three eligible persons nominated by the North Carolina League of Municipalities; and
- (4) One county commissioner or county manager, appointed by the Speaker from a list of three eligible persons nominated by the North Carolina Association of County Commissioners.

“§ 120-159. *Terms.*—Members shall be appointed for terms ending June 30, 1987, and subsequently for two-year terms beginning July 1, 1987, and biennially thereafter. A member eligible when appointed may continue for the remainder of the term regardless of the member’s continued eligibility for the category. The Commission shall elect a chairman from its membership for a one-year term.

“§ 120-160. *Compensation.*—Members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances as provided by G.S. 120-3.1. Members who are State officers or employees shall receive subsistence and travel allowances as provided by G.S. 138-6. All other members shall receive per diem, subsistence, and travel allowances as provided by G.S. 138-5.

“§ 120-161. *Facilities and staff.*—The Commission may meet in the Legislative Building or the Legislative Office Building. Staff for the Commission shall be provided by the Legislative Services Commission. The Commission may contract with the Institute of Government, the Local Government Commission, the Department of Natural Resources and Community Development, or other agencies as may be necessary in completing any required studies, within the funds appropriated to the Commission.

"Part 2. Procedure for Incorporation Review.

"§ 120-163. *Petition.*—(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session.

"§ 120-164. *Notification.*—(a) Not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) the board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) all cities within that county or counties; and
- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Commission.

(b) The petitioners shall also publish, one per week for two consecutive weeks, with the second publication no later than seven days before submitting the petition to the Commission, notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Commission.

"§ 120-165. *Initial inquiry.*—(a) The Commission shall, upon receipt of the petition, determine if the requirements of G.S. 120-163 and G.S. 120-164 have been met. If it determines that those requirements have not been met, it shall return the petition to the petitioners. The Commission shall also publish in the North Carolina Register notice that it has received the petition.

(b) If it determines that those requirements have been met, it shall conduct further inquiry as provided by this Part.

“§ 120-166. *Additional criteria; nearness to another municipality.*—(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) the proposed municipality is entirely on an island that the nearby city is not on;
- (2) the proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
- (3) the nearby municipality by resolution expresses its approval of the incorporation; or
- (4) an area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved.

“§ 120-167. *Additional criteria; population.*—The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100.

“§ 120-168. *Additional criteria; development.*—Except when the entire proposed municipality is within two miles of the Atlantic Ocean, Albemarle Sound, or Pamlico Sound, the Commission may not make a positive recommendation unless 40 percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants.

“§ 120-169. *Additional criteria; area unincorporated.*—The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1).

“§ 120-170. *Findings as to services.*—The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided.

“§ 120-171. *Procedures if findings made.*—(a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative

recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along with specific findings. If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request of a majority of the members of the interim board named in the petition, the Commission may conduct a public hearing and forward any comments or findings made as a result of that hearing along with the negative recommendation.

(b) If the Commission determines that it will not be barred from making a positive recommendation by G.S. 120-166 through G.S. 120-170, it shall require that petitioners have a legally sufficient description of the proposed municipality prepared at their expense as a condition of a positive recommendation.

(c) If the Commission determines that it is not barred from making a positive recommendation, it shall make a positive recommendation to the General Assembly for incorporation.

(d) The report of the Commission on a petition shall be in a form determined by the Commission to be useful to the General Assembly.

“§ 120-172. *Referendum*.—Based on information received at the public hearing, the Commission may recommend that any incorporation act passed by the General Assembly shall be submitted to a referendum, except if the petition contained the signatures of 50 percent (50%) of registered voters the Commission shall not recommend a referendum.

“§ 120-173. *Modification of petition*.—With the agreement of the majority of the persons designated by the petition as an interim governing board, the Commission may submit to the General Assembly recommendations based on deletion of areas from the petition, as long as there are no noncontiguous areas.

“§ 120-174. *Deadline for recommendations*.—If the petition is timely received under G.S. 120-163(e), the Commission shall make its recommendation to the General Assembly no later than 60 days after convening of the next regular session after submission of the petition.”

Sec. 2. G.S. 150B-63(d1) is amended by adding the following at the end: “The North Carolina Register shall also contain notices under G.S. 120-165(a).”

Sec. 3. Funds to implement Article 20 of Chapter 120 of the General Statutes may be provided by the Legislative Services Commission out of funds appropriated to the General Assembly.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1986.

H.B. 2127

CHAPTER 1004

AN ACT TO AUTHORIZE CERTAIN HOUSING AUTHORITIES TO PROVIDE HOUSING FOR MODERATE INCOME PERSONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-9.1 is amended by adding a new subsection to read:

“(d) Notwithstanding the provisions of subsections (b) and (c), subsection (a) of this section applies to all counties with an area of 250 square miles or less, and a population of more than 100,000 according to the most recent decennial federal census, and applies to all cities within such counties.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1986.

S.B. 906

CHAPTER 1005

AN ACT PROVIDING THAT RETAIL FOOD ESTABLISHMENTS ARE NOT MANUFACTURERS FOR SALES TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1)h. is amended by adding the following sentence at the end of that paragraph to read:

“As used in this paragraph, the term ‘manufacturing industries and plants’ does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1986.

S.B. 1305

CHAPTER 1006

AN ACT TO PROVIDE THAT DISTRICT JUDGES SHALL BE APPOINTED WITHIN SIXTY DAYS AFTER NOMINATIONS ARE SUBMITTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-142 is amended by adding after the second sentence a new sentence to read: “Within sixty days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy.”

Sec. 2. Notwithstanding the provisions of Section 1 of this act, where a district bar has submitted nominations for a vacancy before the effective date of this act and the Governor has not appointed to fill the vacancy, the Governor shall make the appointment within 60 days after the effective date of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1986.

H.B. 1445

CHAPTER 1007

AN ACT AUTHORIZING THE SECRETARY OF REVENUE TO PERMIT RETAILERS AND USERS WHO REMIT SALES AND USE TAXES ON A SEMIMONTHLY BASIS TO FILE ESTIMATED RETURNS, AND REQUIRING THAT INTEREST BE WAIVED FOR CERTAIN SALES TAX RETURNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16(b) is amended by deleting the word "bimonthly" each time it appears in that subsection and substituting the word "semimonthly".

Sec. 2. G.S. 105-164.16(b) is further amended by adding the following sentences at the end of the last paragraph of that subsection to read:

"A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but who is unable to gather the information required to submit a complete return for either the first reporting period or both the first and second semimonthly reporting periods may, upon written authorization by the Secretary, file an estimated return for that first reporting period or both periods on the basis prescribed by the Secretary. Once a taxpayer is authorized to file an estimated return for the first period or both periods, the taxpayer may continue to file an estimated return for the first or both periods until the Secretary, by written notification, revokes the taxpayer's authorization to do so. When filing a return for the second semimonthly reporting period, a taxpayer who files an estimated return for the first period but not both periods shall remit the amount of tax due for both the first and second reporting periods, less the amount he remitted with his estimated return.

A taxpayer who files an estimated return for both periods is considered to have been granted an extension for both the first and second reporting periods. Notwithstanding G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a reconciling return for those periods within ten days of the due date of the return for the second period and any underpayment of estimated taxes remitted with the reconciling return is less than ten percent (10%) of the amount of taxes due for both the first and second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files an estimated return for both periods shall be charged interest at the statutory rate from the due date of the return for the first reporting period to the date the reconciling return is filed."

Sec. 3. This act shall become effective August 1, 1986, and shall apply to reporting periods on or after that date.

In the General Assembly read three times and ratified, this the 14th day of July, 1986.

S.B. 859

CHAPTER 1008

AN ACT TO ESTABLISH THE NORTH CAROLINA CHILDHOOD VACCINE-RELATED INJURY COMPENSATION PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130A of the General Statutes is amended by inserting a new Article to read:

“Article 17.

“Childhood Vaccine-Related Injury Compensation Program.

“§ 130A-422. *Definitions.*—The following definitions apply throughout this Article, unless the context clearly implies otherwise:

(1) ‘Claimant’ means any person who files a claim for compensation for a vaccine-related injury pursuant to G.S. 130A-425(b). In the case of a minor or incompetent, a claim may be filed by a guardian *ad litem*, parent, guardian, or other legal representative; and, in the case of a decedent, the claim may be filed by an administrator, executor, or other legal representative.

In the event that more than one person claims to have suffered compensable injuries as the result of the administration of a covered vaccine to a single individual, all these persons shall be treated for purposes of this Article as if they were a single claimant. A single joint claim shall be filed on behalf of all these persons, and the limitations on awards set forth in G.S. 130A-427(b) apply to that joint claim or subsequent joint action as if it were a claim filed on behalf of a single individual.

(2) ‘Commission’ means the North Carolina Industrial Commission.

(3) ‘Covered vaccine’ means a vaccine administered pursuant to the requirements of G.S. 130A-152.

(4) ‘Respondent’ means the person or entity the claimant identifies in the claim as the agent of causality of the vaccine-related injury.

(5) ‘Vaccine-related injury’, with respect to persons engaged in the manufacture, distribution, or sale, or administration of a covered vaccine, means any injury, disability, illness, death, or condition caused by the vaccine. ‘Vaccine-related injury’ shall not mean any injury, disability, illness, death, or condition caused by the method of injection of the vaccine into the body.

“§ 130A-423. *North Carolina Childhood Vaccine-Related Injury Compensation Program; exclusive remedy.*—(a) There is established the North Carolina Childhood Vaccine-Related Injury Compensation Program.

(b) The rights and remedies granted the claimant, the claimant’s parent, guardian *ad litem*, guardian, or personal representative shall exclude all other rights and remedies of the claimant, his parent, guardian *ad litem*, guardian, or personal representative against any respondent at common law or otherwise on account of such injury, illness, disability, death, or condition. If such an action is filed, it shall be dismissed, with prejudice, on the motion of any party under law.

“§ 130A-424. *Industrial Commission authorized to hear and determine claims; damages.*—The North Carolina Industrial Commission is

authorized to hear and pass upon all claims filed pursuant to this Article. The members of the Commission, or a deputy thereof, have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, settlements, and awards, and punish for contempt. The Commission may appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and this deputy or deputies are vested with the same power and authority to hear and determine claims filed pursuant to this Article as is by this Article vested in the members of the Commission.

“§ 130A-425. *Filing of claims.*—(a) Notwithstanding any other provision of State law, no action for compensation for a vaccine-related injury may be filed against any person unless that person was named as a respondent in a claim filed pursuant to this section and unless the claim was filed within the applicable time period set forth in G.S. 130A-429.

(b) In all claims filed pursuant to this Article, the claimant or the person in whose behalf the claim is made shall file with the Commission a verified petition in duplicate, setting forth the following information:

- (1) The name and address of the claimant;
- (2) The name and address of each respondent;
- (3) The amount of compensation in money and services sought to be recovered;
- (4) The time and place where the injury occurred;
- (5) A brief statement of the facts and circumstances surrounding the injury and giving rise to the claim.

Upon receipt of this verified petition in duplicate, the Commission shall enter the case upon its hearing docket and shall determine the matter in the county where the injury occurred unless the parties agree or the Commission directs that the case may be heard in some other county. All parties shall be given reasonable notice of the date when and the place where the claim will be heard. Immediately upon receipt of the claim, the Commission shall serve a copy of the verified petition on each respondent by registered or certified mail. The Commission shall also send a copy of the verified petition to the Secretary of Human Resources, who shall be a party to all proceedings involving the claim, and to the Attorney General who shall represent the State's interest in all the proceedings involving the claim.

The Commission shall adopt rules necessary to govern the proceedings required by this Article. The Commission shall keep a record of all proceedings conducted under this Article, and has the right to subpoena any persons and records it considers necessary in making its determinations. The Commission may require all persons called as witnesses to testify under oath or affirmation, and any member of the Commission may administer oaths. If any person refuses to comply with any subpoena issued pursuant to this Article or to testify with respect to any matter relevant to proceedings conducted under this Article, the Superior Court of Wake County, on application of the Commission, may issue an order requiring the person to comply with the subpoena and to testify. Any failure to obey any such order may be punished by the court as for contempt.

“§ 130A-426. *Determination of claims.*—(a) The Commission shall determine, on the basis of the evidence presented to it, the following issues:

- (1) Whether any injuries alleged in the claim are vaccine-related injuries; and
- (2) How much compensation, if any, is awardable pursuant to G.S. 130A-427.

(b) If the Commission determines pursuant to subsection (a) of this section that the injuries alleged in the claim are not vaccine-related injuries, it shall render a decision denying any compensation. If the Commission decides that any of the injuries are vaccine-related injuries it shall make an award pursuant to guidelines it establishes specifically adopted to relate to vaccine-related injuries.

“§ 130A-427. *Commission awards for vaccine-related injuries; duties of Secretary of Human Resources.*—(a) Upon determining that a claimant has sustained a vaccine-related injury, the Commission shall make an award providing compensation or services for any or all of the following:

- (1) Actual and projected reasonable expenses of medical care, developmental evaluation, special education, vocational training, physical, emotional or behavioral therapy, and residential and custodial care and service expenses, that cannot be provided by the Department of Human Resources pursuant to subdivision (5) of this subsection;
- (2) Loss of earnings and projected earnings, determined in accordance with generally accepted actuarial principles;
- (3) Noneconomic, general damages arising from pain, suffering, and emotional distress;
- (4) Reasonable attorneys fees;
- (5) Needs that the Secretary of Human Resources determines on a case-by-case basis shall be met by medical, health, developmental evaluation, special education, vocational training, physical, emotional, or behavioral therapy, residential and custodial care, and other essential and necessary services, to be provided the injured party by the programs and services administered by the Department. The Secretary of Human Resources shall develop an itemized list of the service needs of the injured party upon review and evaluation of the injured party's medical record and shall present it to the Commission prior to the Commission's determination. In the event that the Commission's award includes the provision of any of these services, the Secretary shall develop a comprehensive, coordinated plan for the delivery of these services to the injured party. Notwithstanding any other provision of State law, the Secretary shall waive all eligibility criteria in determining eligibility for services provided by the Department under the plan of care developed pursuant to this subdivision. If the award includes any such services, these services shall be provided by the Department free of any cost to the injured party.

(b) The money compensation component of the award may not be made pursuant to this section in excess of an aggregate amount of the present day value amount of three hundred thousand dollars (\$300,000) with respect

to all injuries claimed to have resulted from the administration of a covered vaccine to a single individual. The value of all services to be provided by the Department of Human Resources, as part of this award is in addition to the total amount of money compensation, and is not included in the limitation prescribed by this subsection on the amount of money compensation that may be awarded. No damages may be awarded pursuant to subdivision (a)(3) on behalf of any person to whom the covered vaccine was not administered.

“§ 130A-428. *Notice of determination of claim; appeal to full commission.*—(a) Decisions of the Commission pursuant to G.S. 130A-427 shall be final and binding on the claimant and each respondent.

(b) Notwithstanding subsection (a), upon determination of the claim, the Commission shall notify all parties concerned in writing of its decision and any party shall have 15 days after receipt of such notice within which to file notice of appeal with the Commission. This appeal, when so taken, shall be heard by the Commission, sitting as a full commission, on the basis of the record in the matter and upon oral argument of the parties, and the full commission may amend, set aside, or strike out the decision of the hearing commissioner and may issue its own findings of fact and conclusions of law. Upon determination of the claim by the Commission, sitting as a full commission, the Commission shall notify all parties concerned in writing of its decision.

(c) The decision of the Commission, if not reviewed in due time, or an award of the Commission, shall be conclusive and binding as to all questions of fact; but any party to the proceedings may, within 30 days from the date of the decision or award, or within 30 days after receipt of notice to be sent by registered mail or certified mail of the award, but not thereafter, appeal from the decision or award of the Commission to the Court of Appeals for errors of law under the same terms and conditions as govern appeals from the Superior Court to the Court of Appeals in ordinary civil actions. The procedure for the appeal shall be as provided by the rules of appellate procedure.

“§ 130A-429. *Limitation on claims.*—(a) Except as provided in subsection (b) of this section, any claim under this Article that is filed more than six years after the administration of a vaccine alleged to have caused a vaccine-related injury is barred. Claims on behalf of minors or incompetent persons shall be filed by their parents, guardians *ad litem*, or guardians within the applicable limitations period established by this section.

(b) Claims that are filed in accordance with the procedures set forth in G.S. 130A-425(b) within six years after the date of the enactment of this Article shall not be barred unless, on the date the claim was filed, the claimant was barred by the applicable statute of limitations from filing an action for damages with respect to the subject matter of the claim.

“§ 130A-430. *Right of State to bring action against health care provider and manufacturer.*—(a) If the Industrial Commission makes an award for a claimant who it determines has sustained a vaccine-related injury, the State may, within two years of the date the Commission renders its decision, bring an action against the health care provider who

administered the vaccine on the ground that the health care provider was negligent in administering the vaccine. Damages in an action brought under this section are limited to the amount of the award made by the Commission plus the estimated present value of all the services to be provided to the claimant by the Department of Human Resources under G.S. 130A-427.

(b) **Manufacturer.** If the Industrial Commission makes an award for a claimant who it determines has sustained a vaccine-related injury, the State may, within two years of the date the Commission renders its decision, bring an action against the manufacturer who made the vaccine on the ground that the vaccine was a defective product. Damages in an action brought under this section are limited to the amount of the award made by the Commission plus the estimated present value of all the services to be provided to the claimant by the Department of Human Resources under G.S. 130A-427, the reasonable costs of prosecuting the action, including, but not limited to, attorneys' fees, fees charged by witnesses, and costs of exhibits.

"§ 130A-431. A health care provider who receives a vaccine from the State and who gives or sells the vaccine to another, other than in the course of administering the vaccine, is guilty of a general misdemeanor.

"§ 130A-432. *Scope.*—This Article applies to all claims for vaccine-related injuries occurring on and after the effective date of this Article and, at the option of the claimant, to claims for vaccine-related injuries that occurred before the effective date if such claim has not been resolved by final judgment or by settlement agreement or is not barred by a statute of limitations.

This Article applies only to claims for vaccine-related injuries which occur in this State."

Sec. 2. Notwithstanding any law to the contrary, the Secretary of Human Resources may enter into contracts with the manufacturers and suppliers of covered vaccines for the purchase of covered vaccines and shall distribute or sell the covered vaccines to health care providers and facilities within the State. The Secretary may charge a fee for providing a covered vaccine to a health care provider. The fee shall be set at an amount that covers the cost of the vaccine to the Department, plus the cost to the Department of storing and distributing the vaccine. The Secretary shall adopt rules to implement this act.

Sec. 3. (a) There is established the Child Vaccine Injury Compensation Fund within the Department of Human Resources to finance the North Carolina Childhood Vaccine-Related Injury Compensation Program created by this act. The money compensation components of all awards made pursuant to Article 17 of Chapter 130A of the General Statutes shall be paid by the Department of Human Resources from the Fund.

(b) Should the Department of Human Resources find that the sum of appropriations and receipts is insufficient to meet financial obligations incurred by the Department in the administration of this act, the Department may transfer appropriations and receipts which would otherwise revert to the General Fund in order to meet such obligations.

The Department of Human Resources may also budget anticipated receipts as needed to implement this act.

(c) Of the funds appropriated to the Department of Human Resources, Division of Medical Assistance, for fiscal year 1986-87, the Secretary may use up to one hundred thousand dollars (\$100,000) as start up funds needed to implement this act and as reimbursement to health care providers and facilities operated by the Department of Human Resources, or under contract with the Department to provide health care to low income children and their families.

Sec. 4. In the event any provision of this act is held to be invalid by any court of competent jurisdiction, the court's holding as to that provision shall not affect the validity or operation of other provisions of this act; and to that end the provisions of this act are severable.

Sec. 5. This act shall become effective October 1, 1986, and shall expire on October 1, 1989.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 1665

CHAPTER 1009

AN ACT TO AUTHORIZE CITIES IN MECKLENBURG COUNTY TO LEVY A MOTOR VEHICLE TAX NOT TO EXCEED TWENTY DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by deleting "not more than five dollars (\$5.00) per year", and substituting: "not more than twenty dollars (\$20.00) per year".

Sec. 1.1. This act applies only to the City of Charlotte and the Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 810

CHAPTER 1010

AN ACT TO REPEAL THE ACT CALLING FOR A REFERENDUM ON GUBERNATORIAL SUCCESSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 61, Session Laws of 1985, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 2116

CHAPTER 1011

AN ACT TO ASSIST IN FINANCING OF AGRICULTURE.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

“Chapter 122D.

“North Carolina Agricultural Finance Act.

“§ 122D-1. *Short Title.*—This Chapter shall be known and may be cited as the ‘North Carolina Agricultural Finance Act.’

“§ 122D-2. *Legislative findings and purposes.*—(a) The General Assembly hereby finds and declares that there exists in the State of North Carolina a serious shortage of capital and credit available for investment in agriculture, for domestic and export purposes, at interest rates within the financial means of persons engaged in agricultural production and agricultural exports. This shortage of available capital and credit is severe throughout the State, has persisted for a number of years, and constitutes a grave threat to the agricultural industry and to the health, welfare, safety and prosperity of all residents of the State.

(b) The General Assembly hereby finds and declares further that private enterprise and existing federal and state governmental programs have not adequately alleviated the severe shortage of capital and credit available at affordable interest rates for investment in agriculture.

(c) The General Assembly hereby finds and declares that it is a matter of grave public necessity that the North Carolina Agricultural Finance Authority be created and empowered to alleviate the severe shortage of capital and credit available at affordable interest rates for investment in agriculture and for the export of agricultural products, commodities and services by providing such capital and credit at interest rates within the financial means of persons and businesses engaged in agriculture and agricultural exports.

“§ 122D-3. *Definitions.*—As used in this Chapter, the following terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) ‘Agricultural Loan’ means a loan made by a lending institution or by the Authority to any person for the purpose of financing land acquisition or improvement; soil conservation; irrigation; construction, renovation or expansion of buildings and facilities; purchase of farm fixtures, livestock, poultry, and fish of any kind; seeds; fertilizers; pesticides; feeds; machinery; equipment; containers or supplies or any other products employed in the production, cultivation, harvesting, storage, marketing, distribution or export of agricultural products.

(2) ‘Agriculture’ means the commercial production, storage, processing, marketing, distribution or export of any agronomic, floricultural, horticultural, vitacultural, silvicultural or aquacultural crop including, but not limited to, farm products, livestock and livestock products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products.

(3) 'Authority' means the North Carolina Agricultural Finance Authority created by this Chapter.

(4) 'Bonds' or 'notes' mean the bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidences of indebtedness authorized to be issued by the Authority pursuant to the provisions of this Chapter.

(5) 'Commissioner' means the North Carolina Commissioner of Agriculture.

(6) 'Department' means the North Carolina Department of Agriculture.

(7) 'Federal government' means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(8) 'Lending institution' means any bank, bank or trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead, insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, the federal government or any other financial institution authorized to do business in North Carolina or operating under the supervision of any federal agency or any corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

(9) 'Persons' means any individual, partnership, firm, corporation, company, cooperative, association, society, trust or any other business unit or entity, including any state or federal agency.

(10) 'State' means the State of North Carolina or any agency or instrumentality thereof.

"§ 122D-4. *North Carolina Agricultural Finance Authority.*—(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of ten members. The Commissioner shall serve ex officio, with the same rights and privileges, including voting rights, as other members. The other nine members shall be appointed in the following manner:

(1) three members appointed by the General Assembly upon the recommendation of the Speaker of the House under G.S. 120-121;

(2) three members appointed by the General Assembly upon the recommendation of the President of the Senate under G.S. 120-121; and

(3) three members appointed by the Governor.

(c) Members shall serve for three-year terms. Initial terms shall commence July 1, 1986. Appointed members shall serve until their successors are appointed and qualify.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may be reimbursed for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper.

“§ 122D-5. *Officers and employees; administration of Chapter.*—(a) The Authority shall annually elect a chairman and vice-chairman from its members.

(b) The Authority may appoint an Executive Director. The salary of the Executive Director shall be set by the General Assembly in the Current Operations Appropriation Act.

(c) The Executive Director shall administer and enforce this Chapter in accordance with rules promulgated by the Authority. The Executive Director may employ such personnel as may be necessary to administer and enforce the provisions of this Chapter, subject to the approval of the Authority. All employees other than the Executive Director shall be compensated in accordance with the salary schedules adopted pursuant to the State Personnel Act. All employees shall be under the supervision of the Executive Director.

(d) The Authority may employ legal, financial and technical experts and consultants as it deems necessary on a contractual basis.

“§ 122D-6. *General powers of Authority.*—The Authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including the following powers in addition to all other powers granted by other provisions of this Chapter, to:

(1) sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to paragraph (19) of this Section;

(2) have a seal and alter the same at its pleasure;

(3) adopt bylaws for the internal organization and government of the Authority;

(4) adopt, promulgate and amend rules for the administration of the Chapter;

“(4a) limit the definition of agricultural loan under G.S. 122D-3(1);

(5) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Chapter with any federal or State governmental agency, public or private corporation, lending institution or other entity or person, and each and any North Carolina governmental agency is hereby authorized to enter

into contracts and otherwise cooperate with the agency to facilitate the purposes of this Chapter;

(6) accept, administer and expend donations of movable or immovable property from any source, and receive, administer and expend appropriations from the legislature and financial assistance, guarantees, insurance or subsidies from the federal or State government;

(7) subject to the rights of holders of bonds of the Authority, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the Authority by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the Authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and otherwise deal with such property in such manner as may be necessary or desirable to protect the interest of the Authority or of holders of its bonds therein;

(8) procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance or other guarantees from any federal or State governmental agency or private insurance company for the payment of any bonds issued by the Authority, or bond, notes or any other obligations or evidences of indebtedness issued or made by any subsidiary corporation or entity created pursuant to subdivision (19) of this section or by any lending institution or other entity or person, or insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage loans, or any other type of loans, including the power to pay premiums on such insurance or reinsurance;

(9) make, insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on such insurance, coinsurance or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or State government or any private insurance company;

(10) undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the State and needs relating to the promotion of agricultural exports and ways of meeting such needs, and make such studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(11) accept federal, State or private financial or technical assistance and comply with any conditions for such assistance, provided such conditions are not in conflict with the intent of this Chapter;

(12) establish, pay and collect fees and charge in connection with its loans, deposits, insurance commitments and services, including but not limited to, reimbursement of costs of issuing bonds, origination and servicing fees, and insurance premiums;

(13) make loans to or deposits with lending institutions and purchase or sell agricultural loans;

(14) acquire or contract to acquire from any person, firm, corporation, municipality, federal or State agency, by grant, purchase or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same, subject to the rights of holders of the bonds of the Authority, at public or private sale, with or without public bidding;

(15) borrow money, issue bonds, and provide for the rights of the lenders or holders thereof and purchase, discount, sell, negotiate and guarantee, insure, coinsure and reinsure note, drafts, checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness;

(16) subject to the rights of holders of the bonds of the Authority, consent to any modification with respect to the rate of interest, time, payment of any installment of principal or interest, security or any other term or condition of any loan, contract, mortgage, mortgage loan or commitment therefor or agreement of any kind to which the Authority is a party or beneficiary;

(17) maintain an office at such place or places as the Authority shall determine;

(18) serve as the beneficiary of any public trust;

(19) after reporting to the agriculture committees of the House of Representatives and the Senate, to create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds in the international financial market; and

(20) purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of federally issued securities; provided that the proceeds of such securities will be utilized in accordance with the provisions of this Chapter.

“§ 122D-7. *Purchases and sales of agricultural loans.*—The Authority may purchase or contract to purchase and sell or contract to sell agricultural loans made by lending institutions. All lending institutions are hereby authorized to purchase and sell agricultural loans to the Authority in accordance with the provisions of this Chapter and the rules and regulations of the Authority. To the extent that any provisions of this section may be inconsistent with any provision of law governing lending institutions, the provisions of this section shall control.

“§ 122D-8. *Loans to and deposits with lending institutions.*—The Authority may make, or contract to make, loans to and deposits with lending institutions. All lending institutions may borrow funds and accept deposits from the Authority in accordance with the provisions of this Chapter and the rules and regulations of the Authority. The Authority shall require that all proceeds of its loans to or deposits with lending institutions, or an equivalent amount, shall be used by such lending institutions to make agricultural loans, subject to such terms and conditions as the Authority may prescribe. To the extent that any provisions of this section may be inconsistent with any provision of the law governing lending institutions, the provisions of this section shall control.

“§ 122D-9. *Insurance of agricultural loans.*—(a) The Authority may insure and reinsure agricultural loans made by lending institutions, subject to the terms, conditions, limitations, collateral and security provisions, and reserve requirements as shall be determined by the Authority in accordance with the rules adopted by the Authority.

(b) Unless otherwise determined by the Authority, insurance of agricultural loans shall be in the amount of one hundred percent (100%) of the unpaid principal and interest on each loan.

(c) An insured agricultural loan shall be in default when the holder of such loan makes application to the Authority for payment of insurance on such loan stating that such loan is in default in accordance with the terms of any agreement with respect to such insurance executed pursuant to this section.

(d) The Authority may enter into agreements with any person, lending institution or holder of an insured agricultural loan upon such terms as may be agreed upon between the Authority and such person, lending institution, or holder, to provide for the administration, applications therefor, repayment thereof, and to establish the conditions for payment of insurance by the Authority, and the servicing, suit upon, or foreclosure of insured agricultural loans.

(e) The aggregate value of all agricultural loans insured by the Authority and outstanding at any one time shall not exceed 20 times the total value of funds, investments, properties and other assets of the Authority except that this insurance may be further expanded by use of federal, state or private loan insurance, reinsurance, or guarantees of which the Authority is or shall become the beneficiary.

“§ 122D-10. *Bonds of the Authority.*—(a) The Authority may issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper or other obligations or evidences of indebtedness, hereinafter collectively referred to as ‘bonds’, to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in this Chapter, including, but not limited to, the purchase of agricultural loans from lending institutions, the making of loans to or deposits with lending institutions, the payment of interest on bonds of the Authority, the establishment of reserves to secure such bonds, the establishment of reserves with respect to the insurance of agricultural loans, and all other purposes and expenditures of the Authority incident to and necessary or convenient to carry out its public functions or corporate purposes.

(b) Except as may otherwise be provided by the Authority, all bonds issued by the Authority shall be negotiable instruments and may be general obligations of the Authority, secured by the full faith and credit of the Authority and payable out of any money, assets or revenues of the Authority or from any other sources whatsoever that may be available to the Authority. Obligations issued under the provisions of this Chapter shall not be deemed to constitute a debt, liability or obligation of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the revenues or assets of the Authority. Each obligation issued under

this Chapter shall contain on the face thereof a statement to the effect that the Authority shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

(c) Bonds shall be authorized, issued and sold by a resolution or resolutions of the Authority adopted as provided in this Chapter. Such bonds may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates including variable, adjustable or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the income, revenue and receipts of, or available to, the Authority as may be provided by the Authority in the resolution or resolutions providing for the issuance and sale of the bonds of the Authority.

(d) The bonds of the Authority shall be signed by such members or officers of the Authority, by either manual or facsimile signatures, as shall be determined by resolution or resolutions of the Authority, and shall have impressed or imprinted thereon the seal of the Authority, or a facsimile thereof. The coupons attached to coupon bonds of the Authority shall bear the facsimile signature of such member or officer of the Authority as shall be determined by resolution or resolutions of the Authority. The Authority may also provide for the authentication of the bonds, notes or coupons by a trustee or fiscal agent.

(e) Any bonds of the Authority may be validly issued, sold and delivered, notwithstanding that one or more of the members or officers of the Authority signing such bonds, or whose facsimile signature or signatures may be on the bonds or on coupons, shall have ceased to be such member or officer of the Authority at the time such bonds shall actually have been delivered.

(f) Bonds of the Authority may be sold for such price in such manner and from time to time as may be determined by the Authority to be most beneficial, and the Authority may pay all expenses, premiums, fees or commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this Chapter.

(g) The bonds or notes may be issued in coupon or in registered form, or both, as the Agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes.

(h) Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also

provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(i) Bonds or notes may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of such bonds or notes or the trust agreement securing the same.

“§ 122D-11. *Statutory pledge.*—Any pledge made by the Authority shall be valid and binding from time to time when the pledge is made. The money, assets or revenues of the Authority so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to establish and perfect a lien or security interest in the property so pledged by the Authority. Nothing herein shall be construed to prohibit the Authority from selling any assets subject to any such pledge except to the extent that any such sale may be restricted by the trust agreement or resolution providing for the issuance of such obligations.

“§ 122D-12. *Refunding bonds.*—Subject to the rights of the holders of the bonds of the Authority, the Authority may issue from time to time its bonds for the purpose of refunding any bonds of the Authority then outstanding, together with the payment of any redemption premiums thereon and interest accrued or to accrue to the date of redemption of such outstanding bonds. All such refunding bonds of the Authority shall be issued, sold or exchanged, and delivered, shall be secured, and shall be subject to the provisions of this Chapter in the same manner and to the same extent as any other bonds issued by the Authority pursuant to this Chapter, unless otherwise determined by resolution of the Authority. Refunding bonds issued by the Authority as herein provided may be sold or exchanged for outstanding bonds of the Authority and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds.

Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject

to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

“§ 122D-13. *Purchase of bonds by Authority.*—Subject to the rights of holders of bonds, the Authority shall have the power out of any funds available therefor, to purchase bonds of the Authority, which shall thereupon be cancelled, at a price not exceeding:

(1) If the bonds are then subject to optional redemption, the optional redemption price then applicable plus accrued interest to the next interest payment date thereon; or

(2) If the bonds are not then subject to optional redemption, the optional redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to optional redemption plus accrued interest to such date.

“§ 122D-14. *Exemption from taxes.*—The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State, for their well-being and prosperity and for the improvement of their social and economic conditions, and the Authority shall not be required to pay any tax or assessment on any property owned by the Authority under the provisions of this Chapter or upon the income therefrom.

Any obligations issued by the Authority under the provisions of this Chapter, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

“§ 122D-15. *Covenant of State.*—In consideration of the acceptance of and payment for the bonds of the Authority by the holders thereof, the State does hereby pledge to and agree with the holders of any bonds of the Authority issued pursuant to the provisions of this Chapter, that the State will not impair, limit or alter the rights hereby vested in the Authority to fulfill the terms of any agreements made with the holders of the bonds of the Authority, or in any way impair the rights or remedies of such holders thereof, until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The Authority is authorized to include this pledge and agreement of the State in any agreement with the holders of bonds of the Authority.

“§ 122D-16. *Trust funds.*—Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The resolution authorizing any obligations or the trust agreement securing the same may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited, shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Chapter and such resolution or trust agreement may provide. Any such moneys or any other moneys of the Authority may be invested as provided in G.S. 159-28.1.

“§ 122D-17. *Bonds as legal investment and security for public deposits.*—Obligations issued under the provisions of this Chapter are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State is now or may hereafter be authorized by law.

“§ 122D-18. *Account and audits.*—(a) Subject to the provisions of any contract with the holders of its bonds, the Authority shall establish a system of accounts.

(b) The Authority may cause an independent audit of its books and accounts to be prepared annually and the cost thereof may be paid from any available moneys of the Authority.

(c) Within six months after the end of each fiscal year, the Authority shall submit to the Governor and to the General Assembly an annual report on the operations of the Authority. Within 60 days after receipt thereof, the Authority shall submit to the Governor and to the General Assembly a copy of the report of every audit of the books and accounts of the Authority.

“§ 122D-19. *Cooperation of State agencies.*—All State officers and agencies may render such services to the Authority within their respective functions as may be requested by the Authority.

“§ 122D-20. *Construction of Chapter.*—This Chapter, being necessary for the welfare of the State and its residents, shall be liberally construed to effect the purposes thereof.

“§ 122D-21. *Termination of the Authority.*—In the event of the termination of the Authority, all of its rights, money, assets and revenues in excess of its obligations shall be deposited in the General Fund.

“§ 122D-22. *Severability.* The provisions of this Chapter are severable, and if any provision of this Chapter is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this Chapter which can be given effect without the invalid provision.”

Sec. 2. G.S. 120-123 is amended by adding a new subdivision to read:

“(47) The North Carolina Agricultural Finance Authority, as established by G.S. 122D-4”.

Sec. 2.1. (a) Chapter 122B of the General Statutes is repealed.

(b) Funds appropriated to the Department of Agriculture for administration of Chapter 122B of the General Statutes may be used for the administration of Chapter 122D of the General Statutes.

(c) G.S. 120-123(41) is repealed.

Sec. 3. Funds appropriated in Section 2 of House Bill 2055 of the 1985 Session Laws to the Department of Agriculture, Reserve for Farm Loans shall be used for the purposes set out in this act, other than the administration of Chapter 122D of the General Statutes.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 1970

CHAPTER 1012**AN ACT TO INCREASE THE FEES FOR COMMUNITY SERVICE.**

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 20-179.2(c) which reads: "If, however, a person is also ordered to serve a community service punishment under G.S. 20-179 and G.S. 20-179.4, the fee for enrollment in an Alcohol and Drug Education Traffic School program established pursuant to this section is fifty dollars (\$50.00)." is repealed.

Sec. 2. The first sentence of G.S. 15A-1371(i) is amended by deleting "fifty dollars (\$50.00)" and substituting "one hundred dollars (\$100.00)".

Sec. 3. The first sentence of G.S. 15A-1380.2(i) is amended by deleting "fifty dollars (\$50.00)" and substituting "one hundred dollars (\$100.00)".

Sec. 4. The first sentence of G.S. 143B-475.1(b) is amended by deleting "fifty dollars (\$50.00)" and substituting "one hundred dollars (\$100.00)".

Sec. 5. G.S. 15A-1371(i) is amended by adding a new sentence at the end to read: "The fee imposed under this section may be paid as prescribed by the supervising parole officer."

Sec. 6. G.S. 15A-1380.2(i) is amended by adding a new sentence at the end to read: "The fee imposed under this section may be paid as prescribed by the supervising parole officer."

Sec. 7. This act shall become effective August 1, 1986.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

S.B. 881

CHAPTER 1013**AN ACT TO MAKE SUBSTANTIVE CHANGES IN THE INSURANCE LAW AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 97 of the General Statutes is amended by adding a new Article to read:

"Article 4.

"North Carolina Self-Insurance Guaranty Association.

"§ 97-130. *Definitions.*—As used in this Article:

(1) 'Association' means the North Carolina Self-Insurance Guaranty Association established by G.S. 97-131.

(2) 'Board' means the Board of Directors of the Association established by G.S. 97-132.

(3) 'Commissioner' means the North Carolina Commissioner of Insurance.

(4) 'Covered claim' means an unpaid claim against an insolvent self-insurer that relates to an injury that occurs while the self-insurer is a member of the Association and that is compensable under this Chapter.

(5) 'Fund' means the North Carolina Self-Insurance Guaranty Fund established by G.S. 97-133.

(6) 'Plan' means the Plan of Operation authorized by G.S. 97-134.

(7) 'Self-insurer' or 'member self-insurer' means either: (i) an individual employer who has demonstrated under G.S. 97-93 the financial ability to directly pay compensation in the amounts and manner and when due as provided in this Chapter or (ii) a group of two or more employers who have agreed to pool their liabilities under this Chapter pursuant to G.S. 97-93.

"§ 97-131. *Creation.*—(a) There is created a nonprofit unincorporated legal entity to be known as the North Carolina Self-Insurance Guaranty Association. The Association is to provide mechanisms for the payment of covered claims under self-insurance coverage, to avoid excessive delay in payment, to avoid financial loss to claimants because of the insolvency of a self-insurer, and to assist, when called upon to do so by the Commissioner, in the detection of self-insurer insolvencies. It is declared that the Association is an instrumentality of the State, provided that the debts and liabilities of the Association shall not constitute debts and liabilities of the State.

(b) All individual and group self-insurers shall be and remain members of the Association as a condition of authority to self-insure in this State under G.S. 97-93. The Association shall perform its functions under a Plan of Operation established or amended, or both, and approved by the Commissioner, and shall exercise its powers through the Board.

(1) A self-insurer shall be deemed to be a member of the association for purposes of another self-insurer's insolvency, as defined in G.S. 97-135, when:

- a. The self-insurer is a member of the Association when an insolvency occurs, or
- b. The self-insurer has been a member of the Association at some point in time during the 12-month period immediately preceding the insolvency in question.

(2) A self-insurer shall be deemed to be a member of the Association for purposes of its own insolvency when:

- a. The self-insurer is a member of the Association when the insolvency occurs, but claims relating to a compensable event that occurred prior to the date the self-insurer joined the Association are not included hereunder; or
- b. The self-insurer becomes insolvent after leaving the Association, but claims relating to a compensable event that occurred prior to the date the self-insurer joined the Association are not included hereunder, and claims relating to a compensable event that occurred after the self-insurer ceased to be an approved self-insurer are not to be afforded coverage hereunder.

(3) In determining the membership of the Association pursuant to subdivisions (1) and (2) of this subsection for any date after the

effective date of this Article, no employer or group of employers claiming self-insurer status may be deemed to be a member of the Association on any date after the effective date of this Article, unless that employer or group of employers is at that time authorized as a self-insurer by the Commissioner pursuant to G.S. 97-93, 97-94, and 97-96.

“§ 97-132. *Board of directors.*—The Board shall consist of not less than nine persons serving terms as established in the Plan. The members of the Board shall be selected by the member self-insurers, subject to the approval of the Commissioner, until the next annual meeting of the Board. If no members of the Board are selected within 60 days after the effective date of this Article, the Commissioner may appoint the initial members of the Board. In approving selections to the Board, the Commissioner shall consider, among other things, whether all member self-insurers are fairly represented. Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board.

“§ 97-133. *Powers and duties of the Association.*—(a) The Association shall:

- (1) Obtain from each member self-insurer and file with the Commissioner individual reports specifying the aggregate benefits each member paid during the previous calendar year, and the annual standard premium that would have been paid by each member self-insurer during the previous calendar year pursuant to manual rates established by the North Carolina Rate Bureau and using the experience rating procedure approved by the Commissioner for that member self-insurer. These reports shall be due on or before July 15th following the close of that calendar year, except that this deadline may be extended by the Commissioner for up to three additional months for good cause shown.
- (2) Assess each member of the Association as follows:
 - a. Each individual member self-insurer shall be annually assessed an amount equal to one-half of one percent (0.5%) of the annual standard premium that would have been paid by that member self-insurer for workers' compensation insurance during the prior calendar year; and payment to the Association shall be made no later than September 15th following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual standard premium for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual standard premium. Each group member self-insurer shall be annually assessed an amount equal to one-half of one percent (0.5%) of the annual premium collected by the group member self-insurer during the prior calendar year; and payment to the Association shall be made no later than September 15th following the close of that calendar year. Regardless of the size of the Fund, during its first 12 months of membership, no member self-insurer may

discount or reduce this one-half of one percent (0.5%) assessment.

- b. Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.
 - c. If a self-insurer is a member of the Association for less than a full calendar year, the annual standard premium shall be adjusted by that portion of the year the self-insurer is not a member of the Association.
 - d. If application of the contribution rates referred to in sub-subdivisions a. and b. of this subdivision would produce an amount in excess of the limits of the Fund, an equitable proration shall be made;
- (3) Administer a fund, to be known as the North Carolina Self-Insurance Guaranty Fund, which shall receive the assessments required in subdivision (2) of this subsection. Once the Fund reaches one million dollars (\$1,000,000), no further assessments shall be made except subsequent initial assessments of new member self-insurers that are required to be made in subdivision (2) of this subsection. Assessments may be subsequently made only to maintain the Fund at a level of one million dollars (\$1,000,000). The costs of administration by the Association shall be borne by the Fund, and the Association is authorized to secure reinsurance and bonds and to otherwise invest the assets of the Fund to effectuate the purpose of the Association, subject to the approval of the Commissioner. All earnings from investment of Fund assets shall be placed in or credited to the Fund.

The Association may purchase primary excess insurance from an insurer licensed by the Commissioner for the appropriate lines of authority to defray its exposure to loss occasioned by the default of one or more of its members. Any excess insurance so purchased shall be limited to coverage of post-assessment liability of the Association's members; and the Association shall fund any such purchase by levying a special assessment on its members for this purpose or by application of any unencumbered funds available but that have not been raised by imposition of any pre-assessment or post-assessment. The Association may obtain from each member any information the Association may reasonably require in order to facilitate the securing of this primary excess insurance. The Association shall establish reasonable safeguards designed to ensure that information so received is used only for this purpose and is not otherwise disclosed;

- (4) Be obligated to the extent of covered claims occurring prior to the determination of the member self-insurer's insolvency, or occurring after such determination but prior to the obtaining by the self-insurer of workers' compensation insurance as otherwise required under this Chapter;
- (5) After paying any claim resulting from a self-insurer's insolvency, be subrogated to the rights of the injured employee and

- dependents and be entitled to enforce liability against the self-insurer by any appropriate action brought in its own name or in the name of the injured employee and dependents;
- (6) Assess the Fund in an amount necessary to pay only:
 - a. The obligations for the Association under this Article subsequent to an insolvency;
 - b. The expenses of handling covered claims subsequent to an insolvency;
 - c. The costs of examinations under subdivision (8) of this subsection; and
 - d. Other expenses authorized by this Article;
 - (7) Investigate claims brought against the Association and adjust, compromise, settle, and pay covered claims to the extent of the Association's obligation; and deny all other claims. The Association may review settlements to which the insolvent self-insurer was a party to determine the extent to which such settlements may be properly contested;
 - (8) Notify such persons as the Commissioner directs under subdivision (7) of this subsection;
 - (9) Handle claims through its employees or through one or more self-insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but designation of a member self-insurer as a servicing facility may be declined by such self-insurer;
 - (10) Reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association;
 - (11) Pay the other expenses of the Association authorized by this section; and
 - (12) Establish in the Plan a mechanism to calculate the assessments required by subdivisions (1), (2), and (3) of this subsection by a simple and equitable means to convert from policy or fund years that are different from a calendar year.
- (b) The Association may:
 - (1) Employ or retain such persons as are necessary to handle claims and perform other duties of the Association;
 - (2) Borrow funds necessary to effect the purposes of this Article in accord with the Plan;
 - (3) Sue or be sued;
 - (4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this section; and
 - (5) Perform such other acts as are necessary or proper to effectuate the purpose of this section.
 - (c) The following pertains to post-insolvency assessment:
 - (1) In the event the assets of the Fund are not sufficient to pay the obligations of the Association, then the Association shall make an additional assessment of each individual member self-insurer in an amount not in excess of two percent (2%) each year of the annual standard premium that would have been paid by that member self-insurer during the prior calendar year. The

assessments of each individual member self-insurer shall be in the proportion that the annual standard premium of the individual member self-insurer for the premium calendar year bears to the annual standard premium of all individual member self-insurers for the preceding calendar year. For group member self-insurers, the assessment shall not exceed two percent (2%) each year of the annual premium collected by that group member self-insurer during the prior calendar year. The assessments of each group member self-insurer shall be in the proportion that the annual collected premium of the group member self-insurer for the premium calendar year bears to the annual collected premium of all group member self-insurers for the preceding calendar year.

- (2) Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.
- (3) The Association may exempt or defer, in whole or in part, the assessment of any member self-insurer, if the assessment would cause that member's financial statement to reflect liabilities in excess of assets.
- (4) Delinquent assessments, except as provided in subdivision (3) of this subsection, shall bear interest at the rate to be established by the Board, but not to exceed the discount rate of the Federal Reserve Bank, Richmond, Virginia, on the due date of the assessment, plus four percent (4%) annually, computed from the due date of the assessment.
- (5) The Association shall establish in the Plan a mechanism to calculate the assessments required by subdivision (1) of this subsection by a simple and equitable means to convert from policy or fund years that are different from a calendar year.

(d) No individual member self-insurer may be assessed in any calendar year an amount greater than two and one-half percent (2.5%) of the annual standard premium that would have been paid by that individual member self-insurer during the prior calendar year. No group member self-insurer may be assessed in any calendar year an amount greater than two and one-half percent (2.5%) of the annual premium collected by that group member self-insurer during the prior calendar year. If the maximum assessment does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. There shall be established in the Plan a mechanism to calculate the assessments required by this section by a simple and equitable means to convert from policy or fund years that are different from a calendar year.

“§ 97-134. *Plan of Operation.*—The Plan is as follows:

(1) The Association shall submit to the Commissioner a Plan and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The Plan and any amendments become effective upon approval in writing by the Commissioner. If the Association fails to submit a suitable Plan within 90 days after the effective date of this Article, or if at any time thereafter the Association fails to submit suitable amendments to the Plan, the Commissioner shall, after notice and hearing, adopt such reasonable rules

as are necessary or advisable to effectuate this Article. Such rules shall continue in force until modified by the Commissioner or superseded by a Plan submitted by the Association and approved by the Commissioner.

(2) All member self-insurers shall comply with the Plan.

(3) The Plan shall:

- a. Establish the procedures whereby all the powers and duties of the Association under G.S. 97-133 will be performed;
- b. Establish procedures for handling assets of the Association;
- c. Adopt a reasonable mechanism and procedure to achieve equity in assessing the funds required in G.S. 97-133. Consideration shall be given to adjustments for audited payroll, differential effects caused by rate changes, and other relevant factors;
- d. Establish the amount and method of reimbursing members of the Board under G.S. 97-132;
- e. Establish procedures by which claims may be filed with the Association and establish acceptable forms of proof of covered claims. A list of such claims shall be periodically submitted to the Association;
- f. Establish regular places and times for meetings of the Board;
- g. Establish procedures for records to be kept of all financial transactions of the Association, its agents, and the Board;
- h. Provide that any member self-insurer aggrieved by any final action or decision of the Association may appeal to the Commissioner within 30 days after the action or decision;
- i. Establish the procedures whereby selections for the Board shall be submitted to the Commissioner; and
- j. Contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

“§ 97-135. *Insolvency.*—A member self-insurer shall be insolvent for the purposes of this Article under the following circumstances:

(1) Determination of insolvency by a court of competent jurisdiction; and

(2) Institution of bankruptcy proceedings by or regarding the member self-insurer.

“§ 97-136. *Powers and duties of the Commissioner.*—(a) The Commissioner shall notify the Association of the existence of an insolvent member self-insurer not later than 30 days after he receives notice of an insolvency pursuant to the standards set forth in G.S. 97-135.

(b) The Commissioner may:

- (1) Require that the Association notify the insureds of the insolvent member self-insurer and any other interested parties of the insolvency and of their rights under this Article. Such notifications shall be by mail at their last known addresses, where available; but if required information for notification is not available, notice by publication in a newspaper of general circulation in this State shall be sufficient; and
- (2) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

“§ 97-137. *Examination of the Association.*—The Association shall be subject to examination and regulation by the Commissioner. The Board

shall submit, not later than March 30th of each year, a financial report for the preceding calendar year in a form approved by the Commissioner.

“§ 97-138. (Reserved)

“§ 97-139. *Immunity*.—There shall be no liability on the part of and no cause of action of any nature may arise against any member self-insurer, the Association, or its agents or employees, the Board or its individual members, or the Commissioner or his representatives for any acts or omissions taken by them in the performance of their powers and duties under this Article. The immunity established by this section shall not extend to willful neglect or malfeasance that would otherwise be actionable.

“§ 97-140. *Nonduplication of recovery*.—Any person having a covered claim that may be recovered under more than one insurance or self-insurance guaranty association or its equivalent shall seek recovery first from the association of the place or residence of the claimant. Any recovery under this Article shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

“§ 97-141. *Stay of proceedings*.—All proceedings under this Chapter to which the insolvent member self-insurer is a party either before the Industrial Commission or a court in this State and the running of all time periods against either the insolvent member self-insurer or the Association under this Chapter shall be stayed for 60 days from the date of notice to the Association of the insolvency in order to permit the Association to investigate, prosecute, or defend properly any petition, claim, or appeal under this Chapter, provided that the payment of weekly compensation for incapacity is made whenever time periods or proceedings affecting the payment of weekly compensation are stayed.

“§ 97-142. *Disposition of assets upon dissolution*.—In the event of dissolution of the Association, all assets remaining after provision for satisfaction of all outstanding claims shall be distributed to the State Treasurer for establishment of a reserve to satisfy potential claims against the Association and, all such claims being satisfied, for inclusion in the General Fund of the State.”

Sec. 2. G.S. 58-16 is amended in the second sentence by inserting “or, in the Commissioner’s discretion, as often as once in five years” between “three years” and “he shall”.

Sec. 3. Article 1 of Chapter 58 of the General Statutes is amended by adding a new section to read:

“§ 58-18.1. *Immunity from liability for reporting insurance fraud*.—(a) For the purpose of this section, a ‘fraudulent insurance act’ is committed by any person who, knowingly and with the intent to defraud: (1) presents, causes to be presented, or prepares with the knowledge or belief that it will be presented to or by an insurer, purported insurer, broker, or any agent or employee thereof, any written statement as part of an insurance policy, or in support of an insurance policy, an application for the issuance of an insurance policy, or the rating of an insurance policy, or a claim for payment or other benefit pursuant to an insurance policy, that he knows to contain materially false information concerning any material fact; or (2) conceals information concerning any material fact.

(b) In the absence of fraud or bad faith, no person is subject to civil liability for defamation for filing reports or furnishing other information, without malice, required by this Chapter or required by the Commissioner under the authority granted in this Chapter; and no cause of action for defamation arises against such person (1) for any information relating to suspected fraudulent insurance acts furnished to or received from the Commissioner, his designee, or law enforcement officials or their agents and employees; (2) for any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this Chapter; or (3) for any such information furnished in reports to the Insurance Fraud Bureau of The National Association of Insurance Commissioners or any organization established to detect and prevent fraudulent insurance acts, or their agents, employees or designees; nor shall the Commissioner or any employee of the Insurance Frauds Bureau, acting without malice, in the absence of fraud or bad faith, be subject to liability for defamation, and no cause of action for defamation arises against such person for the publication of any confidential report or bulletin related to the official activities of the Insurance Frauds Bureau. Nothing in this section abrogates or modifies any common law or statutory privilege or immunity enjoyed by any person.

(c) During the course of an investigation of a suspected fraudulent insurance act, the Commissioner may personally or through his representative request any insurer to furnish copies of any information relative to that suspected act that is in the insurer's possession. The insurer shall release the information requested and cooperate with the Commissioner or his representative pursuant to this subsection. The information shall include without limitation to:

- (1) Any insurance policy and application therefor relevant to a suspected fraudulent insurance act under investigation;
- (2) Policy premium payment records;
- (3) History of previous loss claims made by the insured;
- (4) Material relating to the investigation by the insurer of the suspected act, including statements of any person, proof of loss, and any other relevant evidence."

Sec. 4. G.S. 58-433(d) is rewritten to read:

"(d) Each surplus lines license shall be issued on September 1 of each year and expire August 31 of the following year unless renewed. Application for renewal shall be made 30 days before the expiration date. The license shall be renewed upon payment of the annual license fee and compliance with the other applicable provisions of this section. Any person who places surplus lines insurance without a valid surplus lines license in effect shall pay a penalty of one thousand dollars (\$1,000) and be subject to such other penalties as provided by law."

Sec. 5. G.S. 58-423(2) is rewritten to read:

"(2) The full amount or kind of insurance cannot be obtained from insurers who are admitted to do business in this State. Such full amount or kind of insurance may be procured from eligible surplus lines insurers, provided that a diligent search is made among the insurers who are admitted to transact and are actually writing the particular kind and class of insurance in this State; and".

Sec. 6. G.S. 58-27 is amended by inserting between “shall” and “be deemed guilty” the following:

“be subject to suspension or revocation of his license under this Chapter; and shall”.

Sec. 7. Article 6 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

“§ 58-75.1. *Maintenance and removal of records and assets.*—(a) Every domestic insurer that has its home or principal office in a location outside this State shall nevertheless maintain an office or offices in this State and keep therein for such period as the Commissioner may by regulation require complete records of its assets, transactions, and affairs, specifically including:

- (1) Financial records;
- (2) Corporate records;
- (3) Reinsurance document;
- (4) Access to all accounting transactions and access in this State, upon demand by the Commissioner, to all original accounting documents;
- (5) Claim files; and
- (6) Payment of claims, in accordance with such methods and systems as are customary or suitable as to the kind or kinds of insurance transacted.

(b) Every domestic insurer that has its home or principal office in a location outside this State shall have and maintain its assets in this State, except as to:

- (1) Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this State; and
- (2) Such property of the insurer as may be customary, necessary, and convenient to enable and facilitate the operation of its branch offices, regional home offices, and operations offices, located outside this State as referred to in G.S. 58-75.2.

(c) The removal from this State of all or a material part of the records or assets of a domestic insurer that has its home or principal office outside this State except pursuant to a plan of merger or consolidation approved by the Commissioner under or for such reasonable purposes and periods of time as may be approved by the Commissioner in writing in advance of such removal, or concealment of such records or assets or material part thereof from the Commissioner is prohibited. Any person who, without the prior approval of the Commissioner, removes or attempts to remove such records or assets or such material part thereof from the office or offices in which they are required to be kept and maintained under subsection (a) of this section or who conceals or attempts to conceal such records from the Commissioner, in violation of this subsection, shall be guilty of a Class J felony. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this State, beyond the period therefor specified in the consent of the Commissioner under which consent the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the Commissioner may institute

delinquency proceedings against the insurer pursuant to the provisions of Article 17A of this Chapter.

(d) This section is subject to the exceptions provided for in G.S. 58-75.2.

“§ 58-75.2. *Exceptions to requirements of G.S. 58-75.1.*—The provisions of G.S. 58-75.1 shall not be deemed to prohibit or prevent an insurer from:

(1) Establishing and maintaining branch offices or regional home offices in other states where necessary or convenient to the transaction of its business and keeping therein the detailed records and assets customary and reasonably necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the Commissioner at his request.

(2) Having, depositing, or transmitting funds and assets of the insurer in or to jurisdictions outside this State as required by other jurisdictions as a condition of transacting insurance in such jurisdictions reasonably and customarily required in the regular course of its business.

(3) Establishing and maintaining its principal operations offices, its usual operations records, and such of its assets as may be necessary or convenient for the purpose, in another state in which the insurer is authorized to transact insurance in order that general administration of its affairs may be combined with that of an affiliated insurer or insurers, but subject to the following conditions:

- a. That the Commissioner consents in writing to such removal of offices, records, and assets from this State upon evidence satisfactory to him that the same will facilitate and make more economical the operations of the insurer, and will not unreasonably diminish the service or protection thereafter to be given the insurer's policyholders in this State and elsewhere;
- b. That the insurer will continue to maintain in this State its principal corporate office or place of business, and maintain therein available to the inspection of the Commissioner complete records of its corporate proceedings and a copy of each financial statement of the insurer current within the preceding five years, including a copy of each interim financial statement prepared for the information of the insurer's officers or directors;
- c. That, upon the written request of the Commissioner, the insurer will with reasonable promptness produce at its principal corporate offices in this State for examination or for subpoena, its records or copies thereof relative to a particular transaction or transactions of the insurer as designated by the Commissioner in his request; and
- d. That if at any time the Commissioner finds that the conditions justifying the maintenance of such offices, records, and assets outside of this State no longer exist, or that the insurer has willfully and knowingly violated any of the conditions stated in sub-subdivisions b. and c., the Commissioner may order the return of such offices, records, and assets to this State within such reasonable time, not less than six months, as may be specified in the order; and that for failure to comply with such order, as

thereafter modified or extended, if any, the Commissioner shall suspend or revoke the insurer's certificate of authority.

(4) Placing its investment assets in one or more custodial accounts inside or outside of this State with banks, trust companies, or other similar institutions pursuant to custodial agreements approved by the Commissioner.

(5) Permitting policyholder and certificate holder records and claims and other information to be kept and maintained by agents, general agents, third-party administrators, creditors, employers, associations, and others in the ordinary course of business in a manner customary or suitable to the kind or kinds of insurance transacted; provided, however, that the insurer shall, upon reasonable notice, make available to the Commissioner or his designee any records or other information permitted by this subsection to be maintained outside this State."

Sec. 8. Chapter 58 of the General Statutes is amended by adding a new Article 40 to read:

"Article 40.

"Product Liability Risk Retention Groups.

"§ 58-505. *Purpose.*—The purpose of this Article is to regulate the formation and operation of risk retention groups in this State formed under the provisions of the Federal Product Liability Risk Retention Act of 1981 (Public Law 97-45) and to protect the public by the appropriate regulation of these risk retention groups.

"§ 58-506. *Definitions.*—In this Article:

(1) 'Another state' means the District of Columbia or any state of the United States.

(2) 'Completed operations liability' means liability, including liability for activities that are completed or abandoned before the date of the occurrence giving rise to the liability, arising out of the installation, maintenance, or repair of any product at a site that is not owned or controlled by:

a. A person who performs that work; or

b. A person who hires an independent contractor to perform that work.

(3) 'Insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting or distributing risk that is determined to be insurance under the law of this State.

(4) 'Insurance regulator of another state' includes the commissioner, director, or superintendent of insurance in another state.

(5) 'Product liability' means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of such a person when the incident giving rise to the claim occurred.

(6) 'Risk retention group' means a corporation or other limited liability association taxable as a corporation or as an insurance company formed under this Article:

- a. that is organized for the primary purpose of assuming and spreading the product liability or completed operations liability risk exposure of its members;
- b. whose primary activity consists of assuming and spreading all or any part of the product liability or completed operations liability risk exposure of its group members; and
- c. that is composed of members each of whose principal activity consists of the manufacture, design, import, distribution, packaging, labeling, lease, or sale of a product.

(7) 'Service provider' means a person providing insurance-related services or management services to or for a risk retention group, including an agent, broker, claims appraiser or adjuster, insurer, actuary, or financial or management consultant.

"§ 58-507. *Risk retention groups chartered in this State.*—(a) A person may not engage in business as a risk retention group unless the person has complied with this Article.

(b) Except as required by this Article, a risk retention group seeking to be chartered in this State must be chartered and licensed as an insurance company authorized by this Chapter and must comply with all of the laws, rules, and requirements applicable to insurers chartered and licensed under this Chapter.

"§ 58-508. *Risk retention groups not chartered in this State.*—(a) A risk retention group chartered in another state, Bermuda, or the Cayman Islands and seeking to do business as a risk retention group in this State must:

- (1) Register with the Commissioner;
- (2) Designate the Commissioner as its agent for service of process and receipt of legal documents;
- (3) File with the Commissioner not later than March 1 of each year its annual statement as filed with the insurance regulator of another state in which it is chartered;
- (4) File with the Commissioner a copy of the last examination, if any, made of the risk retention group, certified by the insurance regulator of another state in which it is chartered;
- (5) File with the Commissioner not later than March 1 of each year a product liability loss experience data report;
- (6) File with the Commissioner, not more than 30 days after filing with the insurance regulator of another state in which it is chartered or of another state conducting any examination or investigation of its financial condition or impairment, a copy of each document filed by it in connection with the examination or investigation; and
- (7) File with the Commissioner not more than 30 days after filing with the insurance regulator of another state in which it is chartered any document concerning its financial condition.

(b) A risk retention group chartered in Bermuda or the Cayman Islands, in addition to the requirements of subsection (a) of this section, must:

- (1) Be chartered or licensed and authorized to do business under the laws of Bermuda or the Cayman Islands before January 1, 1985;
- (2) File with the Commissioner a copy of the certification filed with the insurance regulator of another state, showing that it satisfies the capitalization requirements of that state, together with evidence that the certification has been accepted by the insurance regulator of that state as meeting the requirements of that state; and
- (3) File with the insurance regulator of another state in which it certifies its capitalization a waiver of any secrecy laws of the jurisdiction in which it is chartered.

“§ 58-509. *Agents*.—(a) A person who is a resident of this State, who is acting or offering to act as an agent or broker for a risk retention group, and whose activities include the solicitation, negotiation, or placement of insurance on behalf of a risk retention group operating in this State, or any of its members in this State, must obtain a license as an agent or broker under Article 3 of this Chapter.

(b) An agent or broker licensed by another state and residing outside of this State may act as an agent or broker for a risk retention group operating in this State, or any of its members in this State, in the same manner as a resident agent or broker on obtaining a license under the provisions of Article 3 of this Chapter relating to licensing of nonresident agents or brokers.

(c) An agent or broker licensed as provided by subsection (a) or (b) of this section must report to the Commissioner not later than March 1 of each year the activities and scope of services being provided to the risk retention group.

(d) Before placing business with a risk retention group, each agent or broker shall secure from the appropriate insurance regulator a certified copy of the certificate of authority verifying that the insurer is authorized in its domiciliary jurisdiction to write the product liability or completed operations insurance policy proposed to be procured from it by the agent or broker.

(e) Every contract of insurance placed by an agent or broker with a risk retention group chartered or licensed in this State shall have printed on its face in not less than 10-point bold red type and in contrasting color, the following statement:

‘THE INSURANCE HEREBY EVIDENCED IS WRITTEN BY A RISK RETENTION GROUP LICENSED IN THE STATE OF NORTH CAROLINA, BUT IN THE EVENT OF INSOLVENCY, THIS RISK RETENTION GROUP IS NOT PROTECTED BY ANY GUARANTY FUND IN THE STATE OF NORTH CAROLINA.’

(f) Each contract of insurance placed by an agent or broker with a risk retention group not chartered or licensed in this State shall have printed on its face in not less than 10-point bold red type and in contrasting color, the following statement:

'THE INSURANCE HEREBY EVIDENCED IS WRITTEN BY A RISK RETENTION GROUP NOT LICENSED BY THE STATE OF NORTH CAROLINA, NOT SUBJECT TO ITS SUPERVISION, AND NOT PROTECTED, IN THE EVENT OF THE INSOLVENCY, BY ANY GUARANTY OR SOLVENCY FUND IN THE STATE OF NORTH CAROLINA.'

"§ 58-510. *Other service providers.*—(a) A service provider that is not a licensed agent or broker must:

(1) Register with the Commissioner; and

(2) Report, not later than March 1 of each year in which any activities or services are provided, the activities and scope of services that it is providing to the risk retention group.

(b) This section may not be construed to allow service providers whose activities otherwise require licensing in another state to act on behalf of a risk retention group without such a license.

"§ 58-511. (Reserved)

"§ 58-512. *Restrictions.*—A risk retention group may not:

(1) Insure risks other than those of its member companies;

(2) Provide an insurance or insurance-related service other than for product liability or completed operations unless the risk retention group obtains a certificate of authority in this State and becomes subject to all the laws and rules of this State with respect to those additional lines of insurance and related services; or

(3) Exclude any person from membership in the group solely to provide for members of the group a competitive advantage over the person.

"§ 58-513. *Exemption from compulsory associations.*—A risk retention group, with respect to its product liability or completed operations insurance, may not be a member of or contribute financially to any insurance insolvency guaranty fund or similar mechanism in this State, nor may a risk retention group or its insured receive any benefit from any guaranty fund or similar mechanism for claims arising out of the operations of the risk retention group for product liability or completed operations insurance.

"§ 58-514. *Countersignature not required.*—A policy or contract of insurance issued to a risk retention group or any member of that group is not required to be countersigned as provided by G.S. 58-44.

"§ 58-515. *Unfair claims settlement practices.*—A risk retention group doing business in this State is subject to G.S. 58-39(5) and to Article 3A of this Chapter.

"§ 58-516. *Examination for financial impairment.*—(a) A risk retention group chartered in this State must submit to examination to determine its financial condition as considered necessary by the Commissioner. The examination shall be conducted in accordance with the laws, rules, and procedures applicable to insurers licensed in this State under this Chapter.

(b) A risk retention group that is not chartered in this State but is doing business in this State must submit to the same type of examination as if it were chartered in this State if:

(1) The Commissioner has reason to believe the risk retention group is or may be in a hazardous financial condition; and

- (2) The insurance regulator of another state in which the group is chartered has not begun or has refused to initiate an examination of the group comparable in scope to an examination by this State.

“§ 58-517. *Delinquency proceedings.*—(a) A risk retention group chartered and licensed in this State is subject to Article 17A of this Chapter and must comply with all lawful orders issued in any delinquency proceeding commenced by the Commissioner.

(b) A risk retention group not chartered in this State but doing business in this State is subject to Article 17A of this Chapter and must comply with a lawful order issued in any delinquency proceeding commenced by the Commissioner relating to its operations and financial affairs in this State.

“§ 58-518. *Penalties.*—(a) A risk retention group that is chartered and licensed under G.S. 58-507 or G.S. 58-508 and that violates this Article is subject to all sanctions and penalties applicable to an insurer that holds a certificate of authority under this Chapter, including revocation of its license and the right to do business in this State.

(b) A risk retention group doing business in this State that is not chartered or licensed under G.S. 58-507 or G.S. 58-508 is considered an unauthorized insurer and is subject to Articles 3B, 3C, and 17A of this Chapter.”

Sec. 9. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

“§ 58-21.3. *Insurance Regulatory Information System and similar program test data not public records.*—Financial test ratios and other data received or generated by the Commissioner pursuant to the NAIC Insurance Regulatory Information System, any successor program, or any similar program developed by the Commissioner, are not public records and are not subject to Chapter 132 of the General Statutes or G.S. 58-11.”

Sec. 10. G.S. 58-77(5)d is amended by substituting “five counties in this State that are adjacent to the county in which its home office is located” for “three adjacent counties in this State”.

Sec. 10.1. G.S. 58-124.28 and G.S. 58-131.60 are each amended by substituting “its” for “their” and by substituting “five counties in this State that are adjacent to the county in which its home office is located” for “three adjacent counties”.

Sec. 11. G.S. 58-21, as found in the 1985 Supplement, is amended by adding the following language:

“The Commissioner may require statements under this section, G.S. 58-21.1, G.S. 58-21.2, and G.S. 58-25.1 to be filed in a format that can be read by electronic data processing equipment; and may require such readable statements to be filed on a monthly basis.”

Sec. 12. G.S. 58-40 is amended by adding a new subsection to read:

“(g) Nothing in G.S. 58-51.1 or in G.S. 58-39.4(p) permits a person to simultaneously hold an agent’s license and an adjuster’s license.”

Sec. 13. The section heading of G.S. 58-44.5 is rewritten to read:

“§ 58-44.5. *Rebates and charges in excess of premium prohibited.*”

Sec. 14. G.S. 58-44.5 is amended by designating the present section as subsection (a) and by adding the following subsection:

“(b) No broker or agent may knowingly charge, demand, or receive any consideration that exceeds the filed and approved premium for any policy of insurance unless the applicant for insurance consents before any services are rendered. Any fee charged by a broker or agent for the purpose of compensation for the filling out and completion of applications or forms or the rendering of services associated with the issuance or renewal of a policy of insurance is not allowed, absent the applicant's prior consent, if a commission will be paid by an insurer to the agent or broker on the issuance or renewal of the policy.”

Sec. 15. G.S. 58-194.3(c) is amended by adding the following at the end:

“Notwithstanding any other provision of the General Statutes, once an employee has selected an insurance product for payroll deduction, that product may not be removed from payroll deduction for that employee without his or her specific written consent.”

Sec. 16. G.S. 58-433(c)(2) is amended by inserting between “license” and “shall” the following: “and who are surplus lines licensees”.

Sec. 17. G.S. 58-131.63, as enacted by the 1985 General Assembly, Regular Session 1986, is amended by rewriting subdivision (3) to read:

“(3) Within 45 days after the mailing or delivery of the written request of the insured, the insurer shall mail or deliver the following loss information covering a three-year period:

a. Aggregate information on total closed claims, including date and description of occurrence, and any paid losses;

b. Aggregate information on total open claims, including date and description of occurrence, and amounts of any payments;

c. Information on notice of any occurrence, including date and description of occurrence.”

Sec. 18. Sections 3, 4, 5, 8, 12, and 17 of this act shall become effective September 1, 1986. Sections 1 and 7 of this act shall become effective October 1, 1986. Section 15 of this act is effective May 21, 1985. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 2055

CHAPTER 1014

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS FOR NORTH CAROLINA STATE GOVERNMENT FOR THE 1986-87 FISCAL YEAR, TO APPROPRIATE FUNDS FOR LOCAL NEEDS, AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

The General Assembly of North Carolina enacts:

PART I.—APPROPRIATIONS FOR THE MAXIMUM AMOUNT NECESSARY

Section 1. The appropriations made in this act, except the appropriations in Sections 8 through 18 of this act, are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts

appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

PART II.—CURRENT OPERATIONS/GENERAL FUND

Sec. 2. The items and amounts appropriated from the General Fund for the 1986-87 fiscal year in the 1986-87 column of the schedule in Section 2 of Chapter 479 of the 1985 Session Laws are repealed, and appropriations from the General Fund for the maintenance of the State departments, institutions, and agencies and for other purposes as enumerated are made for the fiscal year ending June 30, 1987, according to the following schedule:

<i>Current Operations—General Fund</i>	<i>1986-87</i>
General Assembly	\$ 14,535,233
Judicial Department	129,816,241
Department of The Governor	8,725,535
Office of State Budget and Management Reserve for Grant-in-Aids	1,697,213
Lieutenant Governor's Office	473,834
Department of Secretary of State	1,848,166
Department of State Auditor	11,370,292
Department of State Treasurer	6,455,304
Department of Public Education	2,032,862,775
Department of Justice	37,630,760
Department of Agriculture	30,615,220
Department of Labor	5,616,103
Department of Insurance	9,257,802
Department of Administration	39,689,329
Department of Transportation	
01. Public Transportation	1,645,000
02. Aeronautics	3,516,571
03. Aid to Railroads	1,100,000
Total Department of Transportation	6,261,571
Department of Natural Resources and Community Development	56,258,159
Department of Human Resources	

Current Operations—General Fund

1986-87

01. Alcoholic Rehabilitation Center-Black Mountain	2,719,270
02. Alcoholic Rehabilitation Center-Butner	2,327,619
03. Alcoholic Rehabilitation Center-Greenville	2,003,180
04. N.C. Special Care Center	3,146,283
05. Black Mountain Center	3,775
06. DHR-Administration and Support Program	23,489,971
07. Schools for the Deaf	13,168,122
08. Governor Morehead School	3,847,330
09. Division of Health Services	71,323,104
10. Social Services	77,734,525
11. Medical Assistance	220,871,223
12. Social Services-State Aid to Non-State Agencies	4,129,646
13. Division of Services for the Blind	5,390,994
14. Division of Mental Health and Mental Retardation Services	114,152,288
15. Dorothea Dix Hospital	28,790,456
16. Broughton Hospital	21,529,895
17. Cherry Hospital	22,724,941
18. John Umstead Hospital	22,823,249
19. Western Carolina Center	2,134,523
20. O'Berry Center	3,053,498
21. Murdoch Center	14,214,776
22. Caswell Center	12,130,013
23. Division of Facility Services	8,055,477
24. Division of Vocational Rehabilitation Services	20,773,175
25. Division of Youth Services	33,689,357
Total Department of Human Resources	734,226,690
Department of Correction	219,823,241
Department of Commerce	30,389,594
Reserve for Microelectronics Center of North Carolina	12,741,000

Current Operations—General Fund

1986-87

Department of Revenue	34,136,307
Department of Cultural Resources	29,773,378
Department of Crime Control and Public Safety	14,629,668
University of North Carolina-Board of Governors	
01. General Administration	11,446,122
02. University Operations-Lump Sum	54,709,665
03. Related Educational Programs	34,402,688
04. University of North Carolina at Chapel Hill	
a. Academic Affairs	95,923,982
b. Division of Health Affairs	67,841,405
c. Area Health Education Centers	23,488,351
05. North Carolina State University at Raleigh	
a. Academic Affairs	118,416,083
b. Agricultural Research Service	25,113,980
c. Agricultural Extension Service	19,622,943
06. University of North Carolina at Greensboro	36,231,931
07. University of North Carolina at Charlotte	31,745,978
08. University of North Carolina at Asheville	8,471,585
09. University of North Carolina at Wilmington	18,504,257
10. East Carolina University	79,968,641
11. North Carolina Agricultural and Technical State University	23,979,198
12. Western Carolina University	22,425,359
13. Appalachian State University	34,273,123
14. Pembroke State University	8,340,199
15. Winston-Salem State University	10,684,632
16. Elizabeth City State University	8,059,230
17. Fayetteville State University	10,053,458
18. North Carolina Central University	20,107,800
19. North Carolina School of the Arts	5,665,362
20. North Carolina Science and Math High School	5,192,185

<i>Current Operations—General Fund</i>	<i>1986-87</i>
21. North Carolina Memorial Hospital	24,657,154
Total University of North Carolina	799,325,311
Department of Community Colleges	273,894,498
State Board of Elections	285,715
Office of Administrative Hearings	444,120
Contingency and Emergency	1,125,000
Reserve for Salary Adjustments	500,000
Reserve for Electronic Data Processing	2,300,000
Reserve for State Aid, Local Programs	7,938,046
Reserve for Salary Increases	533,560,000
Reserve for Salary Increases, State Aid, Local Programs	9,762,416
Reserve for Hospital-Medical Benefits	30,155,000
Debt Service-Interest	25,006,250
Debt Service-Redemption	<u>39,500,000</u>
GRAND TOTAL CURRENT OPERATION-GENERAL FUND	\$5,192,629,771

PART III.—CAPITAL IMPROVEMENTS/GENERAL FUND

Sec. 4. The items and amounts appropriated for the 1986-87 fiscal year from the General Fund in the schedule in Section 4 of Chapter 480 of the 1985 Session Laws are reenacted, and additional appropriations are made from the General Fund for use by State institutions, departments, and agencies to provide for capital improvement projects according to the following schedule:

<i>Capital Improvements</i>	<i>1986-87</i>
Department of Administration (Total)	\$ 2,825,000
01. Renovate Art Museum	200,000
02. Purchase of Credit Union Building for Office of Administrative Hearings	425,000
03. Education Building-Planning and Construction	1,450,000
04. Revenue Building - Planning funds	750,000
Department of Human Resources (Total)	8,284,823
01. Life Safety Code Renovations	6,000,000

Capital Improvements

1986-87

02.	Cherry Hospital - Equipment and Steam Line to Laundry Building	988,200
03.	Lenox Baker Hospital	
a.	Renovations	76,900
b.	Therapeutic Pool	250,000
04.	Juvenile Evaluation Center	
a.	Construction of Maintenance Building	78,500
b.	Landscaping for Chapel	19,500
05.	Black Mountain Center	
a.	Renovation and Replacement of Elevators	117,747
b.	Redecoration of three 40-bed residential units for mentally retarded	56,000
c.	Renovation of houses and construction of building for cluster home project	258,576
d.	Renovation of Building 17 to comply with Code	204,000
e.	Enclose exit and construct ramp Moore wing	103,500
f.	Repave streets and parking lots	31,900
06.	Jackson Training School Renovations	100,000
Department of Correction (Total)		14,551,448
01.	Construction of 300-bed medium custody facility in Buncombe County	5,664,000
02.	Construction of two dormitories in Wake County at North Carolina Correctional Center for Women	2,426,800
03.	Construction of Work Release Facilities	
a.	100-man dorm at Guilford I unit	1,213,400
b.	100-man dorm at Carteret County unit	1,213,400
c.	100-man unit in Buncombe County - land	100,000
	- construction	1,130,000
04.	Reserve for Work Release Facility in Cumberland County	1,230,000
05.	Reserve for Renovations in 52 field units	1,368,348

<i>Capital Improvements</i>	<i>1986-87</i>
06. Cameron Morrison - renovation and fencing	75,500
07. Johnston County Prison Unit - Construction of Chapel	50,000
08. Richmond County Prison Unit - Construction of Chapel	50,000
09. Harnett Correctional Center - Complete Construction of Chapel	30,000
Department of Cultural Resources (Total)	1,192,435
01. Construction of David Stick Library in Manteo	750,000
02. Renovations at Museum of the Cape Fear in Fayetteville	392,435
03. Purchase of land for Old Fort Branch Museum	50,000
Department of Agriculture (Total)	6,276,300
01. Tidewater Research Station -	
a. Construction of Swine Research Facilities	470,000
b. Planning Funds for the Research Center	300,000
02. Mountain Research Station - Construction of Burley Tobacco Facility	316,300
03. Piedmont Research Station - Complete Construction of Broiler Breeder Research Facility	175,000
	Less Receipts 175,000
	Appropriation -0-
04. Horse and Livestock Facilities	
a. Raleigh - Construction of office space and eating facilities	560,000
b. Asheville - Construction of horse stalls and bathrooms	480,000
05. Western Farmers' Market -	
a. Construction of Garage and Maintenance Building	75,000
b. Paving	200,000
06. Reserve for Farmers' Markets	
a. Southeastern Farmers' Market	1,850,000
b. Northeastern Farmers' Market	1,850,000

<i>Capital Improvements</i>	<i>1986-87</i>
c. Fayetteville Farmers' Market	100,000
d. Union County Farmers' Market	75,000
Department of Natural Resources and Community Development (Total)	900,000
01. Zoo - Parking lot, access road, and ticket facility improvements	50,000
02. Marine Fisheries - Complete construction at building in Morehead City	100,000
03. Civil Works Projects	750,000
University of North Carolina Board of Governors (Total)	51,578,250
01. Appalachian State University - Addition to Center for Continuing Education	1,500,000
02. North Carolina State University	
a. School of Textiles	14,300,000
b. Advance Planning - Building for Pulp and Paper Program	300,000
c. Renovations at Chinqua-Penn Plantation	1,500,000
03. University of North Carolina at Asheville	
a. Western North Carolina Arboretum	2,500,000
b. Athletic Field	558,900
c. Advance Planning-Classroom/Office Building	335,000
04. University of North Carolina at Chapel Hill	
a. Conference Center	13,665,000
b. Advance Planning-Family Physicians Center	203,000
05. University of North Carolina at Charlotte-Advance Planning - Office/Classroom Building for College of Architecture	150,000
06. Western Carolina University	
a. Advance Planning-Renovate Stillwell and McKee Buildings and Hoey Auditorium	128,000
b. Advance Planning-Warehouse and Storage Building	34,000

Capital Improvements

1986-87

07. Winston-Salem State University - Addition and Renovation to O'Kelly Library	5,077,400
08. North Carolina Central University - Repairs and Renovations	2,000,000
09. Elizabeth City State University- Science Complex	4,666,300
10. Agricultural Programs - Mountain Horticultural Crops Station and Extension Center at Fletcher	
a. Fencing	83,750
b. Irrigation System	193,000
11. N.C. School of Science and Mathematics - Physical Education and Campus Maintenance Facilities	3,515,900
12. Advanced Planning Funds for Balance of Line 6 Projects	868,000

Department of Community Colleges

01. Construction and Planning Funds	22,526,600
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Department of Justice (Total) 1,303,200

01. Raney Building Renovations	500,000
02. Justice Academy at Salemburg	
a. Firing Range	216,200
b. Precision Driving Lot	237,000
c. Advanced Planning Funds	250,000
03. State Bureau of Investigation-Warehouse Building	100,000

Office of State Budget and Management (Total) 3,000,000

01. Reserve for Asbestos Removal	2,000,000
02. Reserve for Advance Planning	<u>1,000,000</u>

GRAND TOTAL - GENERAL FUND \$112,438,056

PART IV.—APPROPRIATIONS OF FEDERAL BLOCK GRANT FUNDS

—BLOCK GRANT FUNDS ALLOCATED

Sec. 5. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1987, according to the following schedule:

PREVENTIVE HEALTH BLOCK GRANT

01. Emergency Medical Services	\$ 431,967
02. Health Department	933,000
03. Hypertension Programs	539,587
04. Risk Reduction Programs	514,751
05. Fluoridation of Water Supplies	159,838
06. Rape Prevention and Rape Crisis Programs	89,369
TOTAL PREVENTIVE HEALTH BLOCK GRANT	\$ 2,668,512

MATERNAL AND CHILD HEALTH SERVICES

01. Local Maternal and Child Health and Family Planning Services	\$ 8,517,571
02. High Risk Maternity Clinic Services, Perinatal Education and Child Vaccination Services	1,289,835
03. Services to Disabled Children	4,333,975
04. Sudden Infant Death Syndrome	33,000
05. Lead-Based Paint Poisoning	72,000
06. Perinatal Reimbursement	2,100,000
TOTAL MATERNAL AND CHILD HEALTH SERVICES	\$16,346,381

SOCIAL SERVICES BLOCK GRANT

01. County Departments of Social Services	\$40,151,917
02. Division of Mental Health, Mental Retardation, and Substance Abuse	5,770,693
03. Division of Services for the Blind	2,691,673
04. Division of Health Services	1,488,019
05. Division of Youth Services	1,051,428
06. Division of Facility Services	224,299
07. Division of Aging	327,424
08. Day Care Services	11,254,367
09. Volunteer Services	38,845
10. State Administration and State Level Contracts	2,963,183
11. Voluntary Sterilization Funds	100,000
12. Transfer to Maternal and Child Health Block Grant: to supplement, if needed, the Maternal and Child Health Services Reserve established in Section 104 of this act. Funds unexpended for this purpose may be used to support SSBG services in fiscal year 1986-87.	409,665
13. Adult Day Care Services	100,000
14. Grants-in-aid for Prevention Programs	445,000
TOTAL SOCIAL SERVICES BLOCK GRANT	\$67,016,513

LOW INCOME ENERGY BLOCK GRANT

01. Energy Assistance Programs	22,873,520
02. Crisis Intervention	6,200,000
03. Administration	3,000,000
04. Weatherization Program	3,000,000
05. Indian Affairs	42,280
06. Transfer to Maternal and Child Health Block Grant	3,800,000
07. Emergency Medical Services	200,000
08. Day Care Funds	629,025
09. Transfer to Social Services Block Grant for Adult Day Care Services	637,000
TOTAL LOW INCOME ENERGY BLOCK GRANT	\$40,381,825

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

01. Continuation of Staffing Grants to Area Mental Health Programs	\$ 577,897
02. Funds to Area Mental Health, Mental Retardation, and Substance Abuse Programs to Be Distributed on a Per Capita Basis	2,003,676
03. Services to Persons Who Have Aged Out of the Willie M. Class	1,001,502
04. Crisis Stabilization for the Mentally Ill	162,760
05. Group Homes, Early Intervention, and Day Treatment Programs for Emotionally Disturbed Children	185,145
06. Programs for the Chronically Mentally Ill	1,732,010
07. Funds to Substance Abuse Programs	2,986,152
08. Alcohol Services Funds for Female Substance Abusers	492,800
09. Administration	482,048
TOTAL ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT	\$ 9,623,990

JOB TRAINING PARTNERSHIP ACT

01. Title II A funds to the 26 service delivery areas to train economically disadvantaged youth and adults	\$29,408,455
02. Education set aside to State education agencies for projects to serve eligible participants	3,016,252
03. Incentive grants and technical assistance funds to service delivery areas	2,262,189
04. Funds to the Department of Human Resources for training of economically disadvantaged older workers	1,131,094

05. Funds to the Department of Natural Resources and Community Development to administer and audit all activities related to the Job Training Partnership Act program	1,885,158
06. Title II B Summer Youth Employment and Training funds to service delivery areas for economically disadvantaged youth	15,387,566
07. Title III Dislocated workers funds to the Employment Security Commission	1,339,237
TOTAL JOB TRAINING PARTNERSHIP ACT	\$54,429,951

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 7,831,265
02. Limited Purpose Agencies	435,070
03. Commission on Indian Affairs	19,710
04. Department of Natural Resources and Community Development to administer and monitor the activities of the Community Services Block Grant	435,070
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 8,721,115

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 721,020
02. Urgent Needs/Contingency	1,516,499
03. Development Planning/Housing Demonstration	454,950
04. Economic Development	6,065,996
05. Community Revitalization	22,292,535
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT	\$31,051,000

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT CHAPTER II	\$11,950,034
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(b) Decreases in Federal Fund Availability

If federal funds are reduced below the amounts specified above after the effective date of this act, then every program, in each of the federal block grants listed above, shall be reduced by the same percentage as the reduction in federal funds. If federal funds are reduced in the Education Consolidation and Improvement Act Chapter II Block Grant, then the State Board of Education shall determine how reductions are to be made among the various local education agencies.

(c) Increases in Federal Fund Availability

If the United States Congress appropriates additional funds for block grants after the effective date of this act, these funds shall be held in a reserve in each block grant for future allocations by the General Assembly. This subsection shall not apply to the Community Development Block Grant, the Community Services Block Grant, and to Job Training Partnership Act funds.

(d) Education Setaside of JTPA Funds

The Department of Natural Resources and Community Development shall certify to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division when Job Training Partnership Act funds have been distributed to each agency, the total amount distributed to each agency, and the total amount of eight percent (8%) Education Setaside funds received.

—MODIFICATION OF CDBG AWARDS URGED

Sec. 6. The General Assembly finds that the award of an economic development grant to a retail business or enterprise gives an unfair competitive advantage to that retail business or enterprise and thereby jeopardizes jobs at other retail businesses or enterprises in the region. Therefore, the General Assembly urges the Department of Natural Resources and Community Development to reexamine rules and regulations governing the award of Community Development Block Grant economic development funds and to consider modifications to its rating system for economic development grant applications in light of this finding.

—ALLOCATION OF FUNDS FOR GRANT-IN-AID FOR PREVENTION PROGRAMS

Sec. 7. Social Services Block Grant funds appropriated in Section 5 of this act shall be allocated as follows:

Swain County	Cherokee Boys Club, Inc.	30,000
Caldwell County	Health Department	30,000
Robeson County	Health Department	30,000
Anson County	Morven Area Medical Center	40,000
Buncombe County	Health Department	40,000
Carteret County	Community Action, Inc.	40,000
Davidson County	Health Department	40,000
Greene County	Health Care Inc.	40,000
Bertie County	Health Department	40,000
Scotland County	Health Department	40,000
Macon County	Programs for Progress	55,000
Mecklenburg County	N. C. Coalition on Adolescent Pregnancy	20,000

No funds allocated under this section shall be used for purchase and prescriptions of contraceptives, nor shall contraceptives be distributed on school property under this section. None of the funds allocated under this section may be used for transportation to and from abortion services. None of the funds allocated under this section may be used for abortions. This paragraph applies only to the funds allocated under this section.

—RESPITE CARE SERVICE

Sec. 7.1. (a) A respite care program is established to provide needy relief to caregivers of patients who cannot be left alone because of mental or physical problems and whose incomes preclude coverage under North Carolina's Medicaid eligibility standards.

(b) Those eligible for respite care under the program established by this act are limited to those unpaid caregivers who are caring for patients who require constant supervision and who cannot be left alone either (i) because of memory impairment or other problems that make them subject to wandering, or make them dangerous to themselves or others, or (ii)

because of physical immobility, regardless of etiology, that renders them unsafe alone.

(c) Respite care services provided by the programs established by this section shall include:

(1) Attendance and companion services for the patient in order to provide released time to the caregiver;

(2) Personal care services, including meal preparation, to the patient of the caregiver;

(3) Patient assessment and care planning for the patient of the caregiver;

(4) Counseling and training in the caregiving role, including coping mechanisms and behavior modification techniques;

(5) Counseling in accessing available local, regional, and State services;

(6) Adult Day Care where cost effective; and

(7) Temporarily institutionalizing the patient of the caregivers to provide the caregiver total respite, when the mental or physical stress on the caregiver necessitates this respite. This institutionalization may last for no more than a total of 30 days per year per patient. Program funds may provide no more than the current domiciliary care reimbursement rate for this institutionalization. The services described by subdivisions (1) through (5) of this subsection shall be limited to a maximum of 20 hours of service per month per caretaker. Duration of the service period shall be unlimited for as long as the caretaker continues to qualify as a caretaker as defined by subsection (b) of this section.

(d) The program established by this section shall be administered by the Council of Government in each region, which shall contract for service provision with an existing agency to be chosen by the same process as used for federal contracting. The Council in each region shall choose the respite care service provider on the basis of a competitive bidding process open to all existing respite care service providers. Criteria for selection shall include documented capacity to provide care, adequacy of quality assurance, training, supervision, abuse prevention and complaint mechanisms proposed by the provider, and lowest cost.

(e) Eligibility for initial and continued receipt of services shall be determined by review of application forms submitted to the Division of Aging, Department of Human Resources.

(f) Caregivers receiving respite care services through the program established by this section shall pay for some of the services on a sliding scale depending on their ability to pay, but not less than twenty percent (20%) of the cost of these services. The Division of Aging, Department of Human Resources shall specify rates of payment for the services.

(g) Up to three hundred thousand dollars (\$300,000) in Social Services Block Grant funds may be expended for this purpose in this section in fiscal year 1986-87. These funds shall be allocated as follows:

(1) Sufficient funds to establish and maintain a full-time position of Respite Care Services Consultant within the Division of Aging, Department of Human Resources. This consultant shall provide ongoing technical assistance to the Area Agencies on Aging and prepare an annual fiscal report on the program for presentation to the Joint Legislative

Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office no later than the first of May each year.

(2) All other funds to the Area Agencies on Aging, proportionally based on the number of elderly citizens of 75 years or more in the regions, to fund the respite care program established by this act. Revenues received from clients' payments shall be used by the provider agencies to provide additional respite services, as defined by this section. This funding allocation may be changed by the Secretary of the Department of Human Resources upon the recommendation of the Director of the Division of Aging, the Respite Care Service Consultant in the Division of Aging, and the Area Agencies on Aging, after these entities have considered utilization of services, patient age, marital status, caregiver capacities, dependency, disease and mental status data on clients served by the programs. These data shall be provided annually to the Area Agencies on Aging by all respite care service providers.

PART V.—APPROPRIATIONS FOR LOCAL NEEDS

Sec. 8. Appropriations are made from the General Fund for fiscal year 1986-87 to the grantees and for the purposes listed in this Part.

S857 BELLE CHERE FESTIVAL FUNDS

Two thousand five hundred dollars (\$2,500) to the City of Asheville to sponsor the annual Belle Chere Street Festival.

S870 BUNCOMBE EMERGENCY NETWORK FUNDS

Five thousand dollars (\$5,000) to the Asheville-Buncombe Community Christian Ministry, Inc., for start-up costs in developing a central information sharing network for emergency assistance agencies that provide food, housing, fuel, and other basic necessities to needy households in Buncombe County.

S871 MADISON-BUNCOMBE OPPORTUNITY FUNDS

Ten thousand dollars (\$10,000) to The Opportunity Corporation of Madison and Buncombe Counties to reduce the corporation's general fund deficit incurred in providing crisis intervention, health, educational, and other services to low-income persons in Madison and Buncombe Counties.

S885 ARTS TOGETHER FUNDS

Twelve thousand dollars (\$12,000) to Arts Together, Inc., located in Wake County, to continue existing programs and to develop new programs offered to stimulate public interest in the arts.

S886 REENTRY, INC., FUNDS

Fifteen thousand dollars (\$15,000) to ReEntry, Inc., located in Wake County, to expand its community penalties programs.

S890 CATAWBA HISTORICAL RESTORATIONS FUNDS

Seventy thousand dollars (\$70,000) to the Department of Cultural Resources, Division of Archives and History, for continued restoration and site development of the Murray's Mill complex and the Bunker Hill Covered Bridge.

S894 DRY RIDGE MUSEUM FUNDS

Seven hundred fifty dollars (\$750.00) to The Dry Ridge Historical Museum, Inc., in Weaverville, for a bathroom at The Dry Ridge Historical Museum.

S899 FRANKIE LEMMON SCHOOL FUNDS

Five thousand dollars (\$5,000) to the Frankie Lemmon Memorial Preschool, Inc., for its programs for developmentally disabled children.

S921 WESTERN N. C. TOMORROW FUNDS

Ten thousand dollars (\$10,000) to Western North Carolina Tomorrow for operating expenses in connection with organizing a recreation alliance in western North Carolina to promote travel and tourism in this region of the State.

S929 ONSLOW PEERS FUNDS

Sixteen thousand six hundred seventy dollars (\$16,670) to Onslow County for the Parent-Preschool Education Empathy Rapport & Support Program of the Onslow County Department of Social Services for the prevention and alleviation of family stress and domestic violence by offering enrichment, understanding, and education for family members.

S932 ONSLOW HOSPICE FUNDS

Sixteen thousand six hundred seventy dollars (\$16,670) to Onslow Hospice, Incorporated, for operating expenses incurred in providing compassionate care to the terminally ill and their families.

S938 AMERICAN CHILDREN'S HOME FUNDS

Twenty-five thousand dollars (\$25,000) to the Junior Order United American Mechanics Children's Home, Inc., located in Davidson County, to help restore the Pennsylvania Building which was damaged by fire, and which is vitally needed by the Home as a housing facility.

S955 SNUGGS HOUSE IMPROVEMENT FUNDS

Fifteen thousand two hundred fifty dollars (\$15,250) to Stanly County for a new heating/cooling system, weatherproofing, and insulating the I. W. Snuggs House in Stanly County to provide a climatically controlled environment for the preservation of historical artifacts.

S957 ELIADA HOME FUNDS

Fifteen thousand dollars (\$15,000) to Eliada Homes, Inc., for care of children at the Eliada Home for Children.

S958 AVERY COUNTY ADAP TRANSPORTATION FUNDS

Fifteen thousand dollars (\$15,000) to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, to provide transportation services to the clients of the Adult Developmental Activities Program conducted by Avery County.

S959 ELDERLY HOUSING PROJECT FUNDS

Four thousand eight hundred dollars (\$4,800) to the North Central Housing Development Corporation for the North Central Elderly

Housing Project to provide housing for the elderly and handicapped in Warren County.

S961 ASHEVILLE SYMPHONY POPS FUNDS

Seven thousand five hundred dollars (\$7,500) to the Asheville Symphony Society, Inc., to be used by the Asheville Symphony Guild in sponsoring the Guild's annual Pops Concert. The primary purpose of the Pops Concert is to stage the awarding of the six winners of the Guild's Young Artist Competition and to provide an opportunity for the best three of the six winners to play with the Asheville Symphony Orchestra before a large audience. Funds raised in excess of the cost of the concert are used for operating expenses of the Asheville Symphony Orchestra.

S963 HALIFAX E. M. S. AUTHORITY FUNDS

Three thousand five hundred dollars (\$3,500) to the Halifax Emergency Medical Services Authority for capital improvements.

S964 HALIFAX 4-H DAY CAMP FUNDS

Seven thousand dollars (\$7,000) to the 4-H and Youth Day Camp, Inc., located in Halifax County, for building renovations, to enable the Camp to continue serving youth in its camp program.

S965 N. C. DANCE THEATER FUNDS

Thirty thousand dollars (\$30,000) to the North Carolina Dance Theater to be used as operating funds by the North Carolina Dance Theater, to ensure that the dance theater may continue to develop dance and dance audiences, in the State, to the service of all the people of the State.

S966 BLACK ARTISTS' GUILD FUNDS

Five thousand dollars (\$5,000) to The Black Artists' Guild, Inc., to support the programs of the Guild that promote and encourage black artists and that make art available to all the people of the region.

S967 TAMMY LYNN FUNDS

Ten thousand dollars (\$10,000) to the Tammy Lynn Memorial Foundation, Inc., for operating expenses, to enable it to continue its services to mentally retarded children.

S968 LEE COUNTY SCHOOL LIBRARY FUNDS

Ten thousand dollars (\$10,000) to the Lee County Board of Education to update a film and video library.

S969 TEMPLE THEATRE FUNDS

Fifteen thousand dollars (\$15,000) to the Temple Theatre Company, Inc., for capital improvements, to enable the Company to continue its work in the community and to improve the public's access to the arts in the community.

S970 t.l.c. HOME FUNDS

Five thousand dollars (\$5,000) to the t.l.c. Home, Inc., to provide health care for mentally ill children.

S971 BROADWAY PARK DEVELOPMENT FUNDS

Two thousand five hundred dollars (\$2,500) to the Town of Broadway for park development.

S972 SANFORD REVITALIZATION FUNDS

Two thousand five hundred dollars (\$2,500) to the Downtown Sanford Redevelopment Corporation for downtown revitalization planning and development studies.

S973 GENERAL LEE MUSEUM FUNDS

Ten thousand dollars (\$10,000) to The General William C. Lee Memorial Commission, Inc., for The General William C. Lee Museum.

S974 ANGIER SENIOR CENTER FUNDS

Two thousand five hundred dollars (\$2,500) to the Town of Angier for a senior citizens' center at the Angier Depot.

S975 CRAVEN ATHLETIC FIELD HOUSE FUNDS

Fifty thousand five hundred dollars (\$50,500) to the New Bern/Craven County Board of Education to construct a facility at West Craven High School that will be used as an Athletic Field House for all outdoor sports.

S976 LEMON SPRINGS IMPROVEMENT FUNDS

Two thousand five hundred dollars (\$2,500) to the Lemon Springs Improvement Corporation for capital improvements to a city park.

S977 GRANVILLE SENIOR CITIZENS FUNDS

Twenty thousand dollars (\$20,000) to the Oxford Business and Professional Chain, Incorporated, for the Granville County Senior Citizens Program.

S981 BIG IVY HISTORICAL COMPLEX FUNDS

Ten thousand dollars (\$10,000) to The Big Ivy Historical Society to move the Albert McLean log cabin and collection to The Big Ivy Historical Complex in Dillingham.

S983 LINCOLN COMMUNITY CENTER FUNDS

Sixteen thousand dollars (\$16,000) to Lincoln County to be applied to the development of a cultural and physical fitness center.

S984 CLEVELAND HISTORICAL FUNDS

Eight thousand dollars (\$8,000) to The Cleveland County Historical Association for use of its museum.

S986 PINE LEVEL TRASH DISPOSAL FUNDS

Eight thousand dollars (\$8,000) to the Town of Pine Level to purchase trash disposal equipment for the town.

S987 IVANHOE COMMUNITY BUILDING FUNDS

Fifteen thousand dollars (\$15,000) to Sampson County for capital improvements to the Ivanhoe Community Building, serving the Sampson County Ivanhoe Community.

S989 TOBACCO MUSEUM FUNDS

Twenty-five thousand dollars (\$25,000) to the Department of Agriculture for a grant-in-aid to the Tobacco Museum of North Carolina, Inc., for

operating expenses. This appropriation shall be included in the continuation budget of the Department of Agriculture in subsequent fiscal years.

S990 JOHNSTON COUNTY INDUSTRIES FUNDS

Seventy thousand dollars (\$70,000) to Johnston County Industries, Incorporated, to renovate a building at its Smithfield site to house the Community Living Skills Program for the severely disabled.

S996 GASTON SHELTER FUNDS

Eight thousand dollars (\$8,000) to Gaston County for the Gaston County Battered Spouse Program.

S999 LITTLETON CENTER FUNDS

Three thousand five hundred dollars (\$3,500) to the Town of Littleton for the Littleton Civic and Senior Citizens' Club Community Center, to complete the Center's facility, which will enable the Center to serve adequately all the citizens of the community.

S1001 NORTHAMPTON MUSEUM FUNDS

Three thousand five hundred dollars (\$3,500) to the Northampton County Museum, Inc., for implementation of historic preservation and interpretive educational programs.

S1003 GUILFORD COURTHOUSE FUNDS

Three thousand five hundred dollars (\$3,500) to Guilford County for renovation of the Old Guilford County Courthouse in Greensboro.

—GUILFORD DISPUTE SETTLEMENT CENTER FUNDS

Ten thousand dollars (\$10,000) to One Step Further, Inc., for the continued operation of its Guilford County Dispute Settlement Centers in Greensboro and High Point.

S1004 BLACK CHILD AND FAMILY FUNDS

Thirteen thousand five hundred dollars (\$13,500) to the Black Child Development Institute of Greensboro, Incorporated, for a study that will gather and organize information from which to determine and articulate the current status of black children and families in North Carolina with respect to their level of functional success. This study is the first phase of a three phase project designed to identify the current status of the black youth and families of North Carolina with respect to their level of functional success, to develop goals to elevate that status, and to develop a clear and realistic framework for plans that undertake to achieve that new, elevated status.

S1005 BLUE RIDGE WATER ASSOCIATION FUNDS

Twenty-five thousand dollars (\$25,000) to the Blue Ridge Water Association, Inc., to assist in relocating the Wilkes Airport in Wilkes County.

S1006 BLUE RIDGE TECH. COLLEGE FUNDS

Four thousand one hundred sixty dollars (\$4,160) to the Department of Community Colleges to be used for a Henderson County fire fighter

training center at the Henderson County campus of Blue Ridge Technical College.

S1007 GASTON RESCUE FUNDS

Two thousand one hundred dollars (\$2,100) to the Town of Gaston, for capital construction and operating expenses for the Gaston Rescue Squad.

S1008 ELIZABETH II TRANSPORTATION FUNDS

One thousand seven hundred fifty dollars (\$1,750) to the Department of Cultural Resources to transport the Elizabeth II from Manteo to Hertford County and return.

S1009 AHOSKIE COMMUNITY FUNDS

One thousand seven hundred fifty dollars (\$1,750) to the Ahoskie Chamber of Commerce, Inc., to complete renovations to its building, which is used for community meetings.

S1010 GATES COUNTY HISTORICAL SOCIETY FUNDS

Six thousand three hundred dollars (\$6,300) to the Gates County Historical Society, for professional services to draw up plans for the restoration of the interiors of the old Gates County Courthouse and Annex.

S1011 JONES AGRICULTURAL CENTER FUNDS

Fifty thousand dollars (\$50,000) to Jones County to build an agricultural center.

S1012 LENOIR LAW ENFORCEMENT FUNDS

Five thousand dollars (\$5,000) to Lenoir County to be used exclusively for law enforcement associations and offices in Lenoir County to continue programs to promote public awareness of law enforcement.

S1014 CEDAR GROVE DAY CARE FUNDS

Six thousand five hundred dollars (\$6,500) to the Cedar Grove Day Care Center, Inc., in Orange County, to provide day care for children of low income families.

S1015 LINCOLN HEALTH CENTER FUNDS

Five thousand dollars (\$5,000) to the Lincoln Community Health Center, Incorporated, in Durham, to support the Center's health programs.

S1016 OPERATION BREAKTHROUGH COMMUNITY ACTION FUNDS

Five thousand dollars (\$5,000) to Operation Breakthrough, Inc., to carry out its functions as the official community action agency for Durham County.

S1017 DURHAM ARTS COUNCIL FUNDS

Ten thousand dollars (\$10,000) to the Durham Arts Council, Inc., for operating expenses to support arts projects in the Durham community.

S1018 EASTERN MUSIC FESTIVAL FUNDS

Three thousand three hundred dollars (\$3,300) to the Eastern Music Festival, Inc., for their 25th anniversary celebration in Greensboro.

S1019 SOUTHEAST GREENSBORO COUNCIL ON CRIME FUNDS

Thirty-three thousand dollars (\$33,000) to the Southeast Greensboro Council on Crime and Delinquency for its programs in High Point and Greensboro aimed at preventing and addressing school dropout, and in providing academic, motivational, social, cultural, and recreational opportunities for "at risk" youth.

S1020 NORTHEAST CENTER FOR HUMAN DEVELOPMENT FUNDS

Three thousand five hundred dollars (\$3,500) to the Northeast Center for Human Development, located in Bertie County, to continue and promote the Center's on-going programs.

S1021 HISTORIC HOPE FUNDS

Fourteen thousand dollars (\$14,000) to Historic Hope Foundation, Inc., for expenses related to moving and re-erection of St. Francis Methodist Church in Lewiston, no longer an operating church, but a building on the National Register, to Historical Hope, where it can be preserved as the historic building it is and where it can be open to the public.

S1022 ERWIN COMMUNITY CENTER FUNDS

Seven thousand dollars (\$7,000) to the City of Gastonia for recreational programs and equipment for the Erwin Community Center.

S1027 MAXTON DAY CARE COUNCIL FUNDS

Three thousand three hundred fifty dollars (\$3,350) to the Maxton Day Care Council, Inc., to help provide an adult day care center.

S1028 RED SPRINGS COMMUNITY CENTER FUNDS

Eight thousand five hundred dollars (\$8,500) to the Town of Red Springs for renovation of the old fire house as a community center.

S1029 CAROLINA THEATER FUNDS

Five thousand dollars (\$5,000) to the Carolina Civic Center Foundation, Inc., for the continued restoration of the Carolina Theater for the Lumberton Civic Center.

S1030 ST. PAULS COMMUNITY FUNDS

Seven thousand dollars (\$7,000) to the Town of St. Pauls, for renovation of a community building.

S1031 HOKE COUNTY COURTHOUSE FUNDS

Nine thousand dollars (\$9,000) to Hoke County for the completion of the renovations of Hoke County Courthouse.

S1032 PROCTORVILLE TOWN COMMUNITY BUILDING

Three thousand three hundred fifty dollars (\$3,350) to the Town of Proctorville to renovate the town community building.

S1033 RAEFORD COMMUNITY CENTER FUNDS

Six thousand five hundred dollars (\$6,500) to Raeford-Hoke County Chamber of Commerce for renovating and equipping the national guard armory as a community center in Raeford.

S1034 FAIRMONT INDUSTRIAL PARK FUNDS

Three thousand three hundred fifty dollars (\$3,350) to the Town of Fairmont for planning for an industrial park.

S1035 N.C. TURKEY FESTIVAL FUNDS

Seven thousand dollars (\$7,000) to the North Carolina Turkey Festival, Inc., of Raeford, North Carolina for the annual North Carolina Turkey Festival.

S1036 PARKTON COMMUNITY CENTER FUNDS

Eight thousand five hundred dollars (\$8,500) to the Town of Parkton for renovating and equipping the old national guard armory as a recreational center for the community.

S1037 ROWLAND SOUTHSIDE ALUMNI FUNDS

Three thousand three hundred fifty dollars (\$3,350) to the Southside School Alumni Association for the renovation of the old Southside High School in Rowland, North Carolina, as an historic, civic, and social center for the citizens of the Rowland community.

S1038 STRIKE AT THE WIND FUNDS

Five thousand dollars (\$5,000) to Robeson Historical Drama, Incorporated, to produce the outdoor drama "Strike at the Wind" at Pembroke, North Carolina.

S1039 WAKE SENIOR CITIZENS CENTER FUNDS

Six thousand dollars (\$6,000) to the Town of Wendell for capital and operating expenses of the Eastern Wake Regional Senior Citizens Center.

S1040 FRANKLIN JAIL RENOVATION FUNDS

Seven thousand dollars (\$7,000) to Franklin County to renovate the county jail.

S1041 LOUISBURG PUBLIC SAFETY CENTER FUNDS

Twenty-three thousand dollars (\$23,000) to the Town of Louisburg for renovation of the old A&P building to house the Louisburg Police and Fire Departments and as a Public Safety and Defense Training Center.

S1042 RICHMOND ECONOMIC DEVELOPMENT FUNDS

Fifteen thousand dollars (\$15,000) to the Richmond Economic Development Corporation to promote the economic development of Richmond County.

S1043 EAST HAMLET CITIZENS FUNDS

Five thousand dollars (\$5,000) to East Hamlet Community Concerned Citizens, Inc., for its programs for community organizations.

S1044 RICHMOND SENIOR/IMPROVEMENT FUNDS

- (1) Ten thousand dollars (\$10,000) to Richmond County to help fund construction of a Senior Citizens Center at East Rockingham Park in Richmond County.
- (2) Ten thousand dollars (\$10,000) to Richmond County for the Philadelphia Improvement Association, for operating expenses

incurred in its community development programs for Richmond County.

S1045 PALISADES PARK FUNDS

Five thousand dollars (\$5,000) to the Rockingham Recreation Foundation to improve recreational facilities at Palisades Park.

S1046 MONTGOMERY RAPE CRISIS FUNDS

Five thousand dollars (\$5,000) to Montgomery County, for the Montgomery County Rape Crisis Program, for operating expenses.

S1047 SCOTLAND SUMMER JOBS PROGRAM FUNDS

Fifteen thousand dollars (\$15,000) to Scotland County for the county's summer jobs training program.

S1048 TROY/STANFIELD PARK FUNDS

- (1) Twenty thousand dollars (\$20,000) to the Town of Troy for Troy Park recreational facilities.
- (2) Fifteen thousand dollars (\$15,000) to the Town of Stanfield for its park recreational activities.

S1049 RANKIN MUSEUM FUNDS

Ten thousand dollars (\$10,000) to The Rankin Museum, Inc., to help establish a museum of American Heritage in Ellerbe.

S1050 HAMLET LIBRARY FRIENDS FUNDS

Ten thousand dollars (\$10,000) to Friends of the Hamlet Public Library, Inc., to help fund construction of a new library building.

S1051 ANSON COUNTY PROJECTS FUNDS

Ten thousand dollars (\$10,000) to Anson County, for public service projects' development.

S1052 ELM CITY RESCUE SQUAD FUNDS

Fifteen thousand dollars (\$15,000) to Wilson County to purchase equipment for the Elm City Rescue Squad.

S1053 FALKLAND RESCUE SQUAD FUNDS

Four thousand dollars (\$4,000) to the Falkland Rescue Squad, Inc., for construction of a multipurpose community building.

S1054 PITT COMMUNITY COLLEGE FUNDS

One thousand dollars (\$1,000) to Pitt County for Pitt Community College to use for its High School Vocational Technical Articulation program.

S1055 FARMVILLE SENIOR COUNCIL FUNDS

Two thousand dollars (\$2,000) to Pitt County for the benefit of the Farmville Senior Council for bus transportation for senior citizens.

S1056 PITT-GREENVILLE TOURISM FUNDS

One thousand dollars (\$1,000) to Pitt County for the use of the Pitt-Greenville Chamber of Commerce, Inc., to promote tourism.

S1057 ROCKY MOUNT OIC FUNDS

Ten thousand dollars (\$10,000) to Edgecombe County for the Opportunity Industrialization Commission's program to train the unemployed and school dropouts in the community.

S1058 BETHEL LIBRARY FUNDS

Three thousand dollars (\$3,000) to the Town of Bethel, to purchase books for the Bethel library.

S1059 BETHEL SENIOR CENTER FUNDS

Two thousand dollars (\$2,000) to Pitt County for capital improvements to the Bethel Senior Citizens Center in Pitt County.

S1060 EDGECOMBE PUBLIC LIBRARY FUNDS

Fifteen thousand dollars (\$15,000) to Edgecombe County for operating expenses of the Edgecombe County Public Library.

S1061 FARMVILLE ARTS COUNCIL FUNDS

One thousand dollars (\$1,000) to Pitt County for The Farmville Arts Council, Inc., for operating expenses, to enable the Council to promote the arts.

S1063 ROBERSONVILLE HOSPITAL FUNDS

Ten thousand dollars (\$10,000) to Robersonville Community Hospital, Inc., for purchase of hospital equipment.

S1064 FARMVILLE BAND AND RECREATION UNIFORMS FUNDS

Six thousand dollars (\$6,000) to Pitt County to be divided as follows: four thousand dollars (\$4,000) to the Farmville High School Band Boosters Club for band uniforms and two thousand dollars (\$2,000) to the Farmville Recreation Center for recreation uniforms.

S1065 CRISIS ASSISTANCE FUNDS

Seven thousand five hundred dollars (\$7,500) to the Crisis Assistance Ministry for emergency assistance to poor and homeless residents of Charlotte-Mecklenburg.

S1066 CHARLOTTE FAMILY OUTREACH CENTER FUNDS

Two thousand five hundred dollars (\$2,500) to the Family Outreach and Counseling Center, in Charlotte, to provide adult day services for senior citizens unable to afford them.

S1067 AFRO-AMERICAN CHILDREN'S THEATER FUNDS

Five thousand dollars (\$5,000) to Johnson C. Smith University, Incorporated, to be used by the Afro-American Children's Theater at the University to develop, polish, and expose the creative skills of inner-city, low income youth.

S1068 AFRO-AMERICAN CULTURAL CENTER FUNDS

Ten thousand dollars (\$10,000) to the Charlotte/Mecklenburg Afro-American Cultural and Service Center, Inc., for public service operating expenses of the center.

S1069 CHARLOTTE EMERGENCY HOUSING PROJECT FUNDS

Two thousand five hundred dollars (\$2,500) to the Charlotte Emergency Housing, Inc., to provide housing for homeless families to help keep the families together during emergency and financial crises.

S1070 CHARLOTTE-MECKLENBURG YOUTH COUNCIL FUNDS

Two thousand five hundred dollars (\$2,500) to the Charlotte-Mecklenburg Youth Council to provide operating funds for youth programs providing enrichment training, career training and job procurement.

S1071 FAMILY HOUSING SERVICES FUNDS

Seven thousand five hundred dollars (\$7,500) to Family Housing Services, Inc., to enable the agency to continue counseling of low income residents to prevent loss of their homes through financial hardship and provide financial planning services and education on household budgeting.

S1072 ANITA STROUD FOUNDATION FUNDS

Five thousand dollars (\$5,000) to the Anita Stroud Foundation, Inc., to enable low income children to attend summer camps and engage in other cultural, educational, and tutorial programs.

S1073 SICKLE CELL DISEASE FOR CHARLOTTE FUNDS

Twelve thousand five hundred dollars (\$12,500) to the Association for Sickle Cell Disease for Charlotte-Metrolina, Inc., to provide operating expenses to allow continued operations in its Mecklenburg, Cabarrus, Gaston, Iredell, Rowan, Stanly, and Union County catchment area.

S1074 MECKLENBURG PREGNANCY FUNDS

Five thousand dollars (\$5,000) to The Mecklenburg Council on Adolescent Pregnancy for operating expenses for the program to prevent adolescent pregnancy.

S1075 GETHSEMANE ENRICHMENT FUNDS

Two thousand five hundred dollars (\$2,500) to the Gethsemane Enrichment Program, Inc., for its services to poor, inner-city youth.

S1076 PERSON AGING/DURHAM/HENDERSON/POLK DISPUTE FUNDS

- (1) Five thousand dollars (\$5,000) for the Person Council on Aging for repairs to the social hall/nutrition site.
- (2) Ten thousand dollars (\$10,000) for the Dispute Settlement Center of Durham County, Inc., for operating expenses to continue the Center's vital public service programs.
- (3) Ten thousand dollars (\$10,000) to the Henderson County Dispute Settlement Center, Inc., for operating expenses to continue its vital public service programs.
- (4) Five thousand dollars (\$5,000) to One Step Further, Inc., for operation of its dispute settlement centers in Greensboro and High Point.

S1077 METROLINA FOOD BANK FUNDS

Two thousand five hundred (\$2,500) to the Metrolina Food Bank, Inc., to provide food for poor residents of the Charlotte-Mecklenburg area.

S1078 McCROREY YMCA FUNDS

Two thousand five hundred dollars (\$2,500) to the Young Men's Christian Association of Charlotte and Mecklenburg, for the McCrorey Branch,

to assist with operating expenses of providing recreation services for inner-city youth and maintenance of facilities.

S1086 EDEN SENIORS FUNDS

Seven thousand five hundred dollars (\$7,500) to the City of Eden to build a Senior Citizens room in the basement of Draper Fire Station #2.

S1087 MADISON CIVIC CENTER FUNDS

Two thousand five hundred dollars (\$2,500) to the Town of Madison for renovation of the Charles Drew School as a civic center.

S1088 PENN HOUSE RENOVATION FUNDS

Seven thousand five hundred dollars (\$7,500) to the City of Reidsville to complete the renovation of Penn House.

S1089 MADISON RECREATION EQUIPMENT FUNDS

Two thousand five hundred dollars (\$2,500) to the Town of Madison for additional recreation equipment for Idol City Park.

S1091 STONEVILLE REVITALIZATION FUNDS

Seven thousand five hundred dollars (\$7,500) to install underground utilities as part of the downtown revitalization program.

S1092 COVE CREEK SENIOR CENTER FUNDS

Seven thousand five hundred dollars (\$7,500) to Watauga County for improvements for the Cove Creek Senior Citizen Center.

S1093 ASHE LIBRARY FUNDS

Seven thousand five hundred dollars (\$7,500) to the Appalachian Regional Library to expand the Ashe County Public Library.

S1095 CARLYLE HIGGINS AGRICULTURAL CENTER FUNDS

Seven thousand five hundred dollars (\$7,500) to Alleghany County to help build the Carlyle Higgins Agricultural Center.

S1096 DURHAM MEALS ON WHEELS FUNDS

Five thousand dollars (\$5,000) to Durham Congregations in Action to carry out its Meals on Wheels Program.

S1097 JOHN AVERY BOY'S CLUB FUNDS

Five thousand dollars (\$5,000) to the John Avery Boy's Club, Incorporated, located in Durham, to promote the physical, mental, and moral development of Durham youths.

S1098 DURHAM HOUSING/YOUTH ENRICHMENT FUNDS

Five thousand dollars (\$5,000) to the Housing Authority of the City of Durham to promote the youth enrichment program.

S1099 SAMPSON ALUMNI FUNDS

Five thousand dollars (\$5,000) to the Sampson High School Alumni Association, Incorporated, to support the public service programs of the Association.

S1100 JOHNSTON CENTRAL ALUMNI FUNDS

Five thousand dollars (\$5,000) to the Johnston Central High School Alumni Association, Incorporated, to support the public service programs of the Association.

S1102 COHARIE INTRA TRIBAL COUNCIL FUNDS

Three thousand five hundred dollars (\$3,500) to the Coharie Intra Tribal Council, Inc., to support the public service programs of the Council.

S1103 HERRING COMMUNITY BUILDING FUNDS

Two thousand five hundred dollars (\$2,500) to Sampson County to renovate the Herring Community Building in Sampson County.

S1104 FOUR OAKS COMMUNITY BUILDING FUNDS

Six thousand dollars (\$6,000) to the Town of Four Oaks to assist in completing a community building.

S1105 VANCE EMERGENCY COMMUNICATIONS FUNDS

Six thousand dollars (\$6,000) to Vance County for an emergency communications system.

S1106 N.C. SENIOR CITIZENS' FEDERATION FUNDS

Ten thousand dollars (\$10,000) to the North Carolina Senior Citizens' Federation, Inc., to assist with the costs of programs made available to senior citizens.

S1107 KNIGHTDALE PARK FUNDS

Three thousand dollars (\$3,000) to the Town of Knightdale to improve facilities at the Knightdale Recreation Park.

S1108 HISTORIC BETHABARA PARK FUNDS

Eight thousand dollars (\$8,000) to the Department of Cultural Resources for the capital development program of Historic Bethabara Park, Inc., particularly to provide facilities for the administrative and educational needs of the museum.

S1109 HERTFORD ARTS ACADEMY FUNDS

Fourteen thousand dollars (\$14,000) to The Murfreesboro Historical Association, Inc., for capital improvements to the Hertford Academy for the Arts.

S1110 "FIRST FOR FREEDOM" DRAMA FUNDS

Three thousand five hundred dollars (\$3,500) to Halifax County Historical Association, for production costs of the outdoor drama "First For Freedom".

S1111 OPERA HOUSE FUNDS

Fifteen thousand dollars (\$15,000) to Opera House Productions of Wilmington, N.C., Inc., for general operations incurred in encouraging, and producing opera, and in making it accessible to the public.

S1113 KATIE B. HINES SENIOR CENTER FUNDS

Fifteen thousand dollars (\$15,000) to the Katie B. Hines Senior Center, Inc., in Wilmington, for operating expenses to enable the Center to continue its services to its senior citizens.

S1114 HISTORIC HOPE FUNDS

Thirty thousand dollars (\$30,000) to Historic Hope Foundation, Inc., for expenses related to moving and re-erection of St. Francis Methodist Church in Lewiston, no longer an operating church, to Historical Hope.

S1115 ROPER SAFETY EQUIPMENT FUNDS

Thirty-five thousand dollars (\$35,000) to the Town of Roper, for the purchase of safety equipment.

S1116 GATES COUNTY HISTORICAL SOCIETY FUNDS

Five thousand dollars (\$5,000) to Gates County Historical Society for professional services to draw up plans for the restoration of the interiors of the old Gates County Courthouse and Annex.

S1117 SURRY COUNTY COURTHOUSE FUNDS

Seven thousand five hundred dollars (\$7,500) to Surry County to provide funds to landscape the Surry County Courthouse grounds.

S1118 STONEVILLE WATER CONNECTOR FUNDS

Seven thousand five hundred dollars (\$7,500) to the Town of Mayodan to construct a connecting waterline between the Towns of Stoneville and Mayodan.

S1119 JOB STRATEGY CENTER FUNDS

Four thousand dollars (\$4,000) to the Winston-Salem/Forsyth County Council on the Status of Women, Inc., for expenses of the Council's Job Strategy Center.

S1120 NORTHWEST DAY SCHOOL FUNDS

Seven thousand dollars (\$7,000) to the Northwest Ministry Developmental Day School, Inc., to provide funds for expansion of classrooms, food service, and staff to accommodate additional severely and profoundly mentally impaired and handicapped children, on the waiting list at the day school.

S1121 URBAN LEAGUE SERVICES FUNDS

Four thousand dollars (\$4,000) to the Winston-Salem Urban League for service delivery programs.

S1122 NATURE SCIENCE CENTER FUNDS

Fourteen thousand dollars (\$14,000) to the Nature Science Center of Forsyth County, Inc., for general operating expenses.

S1123 SAWTOOTH CENTER FUNDS

Four thousand dollars (\$4,000) to The Sawtooth Center for Visual Design for operating expenses incurred in promoting the Center's arts service programs.

S1124 NEIGHBORHOOD COUNCIL DAY CARE FUNDS

Four thousand dollars (\$4,000) to the Neighborhood Advisory Council, Inc., to renovate the Adult Day Care Center and maintain that program of the Neighborhood Council.

S1125 ROCKY MOUNT CHILDREN'S MUSEUM FUNDS

Fifteen thousand dollars (\$15,000) to the City of Rocky Mount for the Rocky Mount Children's Museum, for operating expenses, to enable the Museum to continue to serve the public.

S1126 ROCKY MOUNT BAND FUNDS

Two thousand five hundred dollars (\$2,500) to the City of Rocky Mount as a grant-in-aid to the Rocky Mount Community Band.

S1127 ROCKY MOUNT CHILDREN'S CAMP FUNDS

Five thousand dollars (\$5,000) to the North Carolina ACLD, Inc., for the Rocky Mount Chapter to help with their summer camp program.

S1128 ROCKY MOUNT HIGH BAND FUNDS

Fifteen thousand dollars (\$15,000) to the Rocky Mount Board of Education to assist the Rocky Mount Senior High School Band with expenses of participating in the Rose Bowl Parade as a National Champion Band.

S1129 ROANOKE RAPIDS AUDITORIUM FUNDS

Five thousand dollars (\$5,000) to Halifax County for renovation of the Roanoke Rapids High School Auditorium.

S1130 CANAL ARTS CENTER FUNDS

Five thousand dollars (\$5,000) to the Halifax County Arts Council for operating and capital expenses of the Canal Arts Center.

S1131 LAKELAND ARTS CENTER FUNDS

Seven thousand five hundred dollars (\$7,500) to Lakeland Cultural Arts Center, Inc., in Littleton, to support the programs of the Center.

S1132 YWCA OF WINSTON-SALEM FUNDS

Eight thousand dollars (\$8,000) to the Young Women's Christian Association of Winston-Salem and Forsyth County, Incorporated, for public service programs such as the Summer Break Day Camp (a 10-week program for emotionally and physically handicapped teenagers), the Water Exercise Program (an individualized exercise program for senior citizens and people suffering from various disabilities), and the Sunny Glade Day Camp (a 12-week program for elementary children which provides quality child care for low-income families).

S1133 BETHLEHEM CENTER FUNDS

Four thousand dollars (\$4,000) to the Bethlehem Community Center, Inc., for the Center's child care program.

S1134 DELTA ARTS CENTER FUNDS

Five thousand dollars (\$5,000) to the Winston-Salem Delta Fine Arts, Incorporated, to continue the programs of cultural enrichment offered by the Delta Arts Center.

S1135 WINSTON-SALEM ARTS FUNDS

Thirty thousand dollars (\$30,000) to the Arts Council, Inc., located in Winston-Salem, for operating expenses to enable the Council to continue coordinating, promoting, and developing the arts in Forsyth County, thus contributing significantly to the quality of life of the citizens of the county.

S1136 WINSTON-SALEM SYMPHONY FUNDS

Nine thousand dollars (\$9,000) to the Winston-Salem Symphony Association, Incorporated, to support the Winston-Salem Symphony's music education programs for elementary students in Forsyth County and its children's concerts.

S1138 PIEDMONT OPERA THEATRE, INC., FUNDS

Four thousand dollars (\$4,000) to the Piedmont Opera Theatre, Inc., of Winston-Salem, for operating expenses, to enable Piedmont Opera Theatre to continue serving the public by producing quality opera, by making productions available to public schools, by expanding production to reach all young people, and by making senior citizen discounts available.

S1139 EXPERIMENT IN SELF-RELIANCE FUNDS

Five thousand dollars (\$5,000) to the Experiment in Self-Reliance, Inc., of Forsyth County to help support its programs for disadvantaged people of Forsyth County.

S1140 WOMEN'S RESOURCE CENTER FUNDS

Twenty-five thousand dollars (\$25,000) to the North Carolina Council of Women's Organizations, Inc., for the Women's Resource Center to assist with the operating expenses of the public service programs offered by the Women's Resource Center.

S1141 WAKE REHABILITATION SERVICES FUNDS

Twelve thousand dollars (\$12,000) to the Rehabilitation Services of Wake County, Incorporated, for operating costs of the therapy services offered by this organizations.

S1142 CREATIVE EXCHANGE FUNDS

Eleven thousand dollars (\$11,000) to The Creative Exchange, Inc., for its educational programs.

S1143 ROLESVILLE RECREATION FUNDS

Five thousand dollars (\$5,000) to the Town of Rolesville, for its recreational programs.

S1144 FRANKLIN CO. MUSEUM FUNDS

Ten thousand dollars (\$10,000) to the Department of Cultural Resources, Division of Archives and History, to continue the preservations efforts of the Franklin County Museum of History Associates in Franklin County.

S1145 CENTER FOR INDEPENDENT LIVING FUNDS

Five thousand dollars (\$5,000) to the Center for Independent Living, Inc., to construct a home for mentally retarded adults.

S1146 DUNN DOWNTOWN REVITALIZATION

Five thousand dollars (\$5,000) to the City of Dunn for the downtown revitalization.

S1147 TRIANGLE J-WATER RESOURCES FUNDS

Sixty thousand dollars (\$60,000) to the City of Raleigh to be allocated to the Triangle J Council of Governments for use in its Water Resources Program.

S1148 POWELLVILLE RECREATION/CIVIC CENTER FUNDS

Two thousand one hundred dollars (\$2,100) to the Town of Powellsville to purchase indoor and outdoor equipment for the Powellsville Recreation and Civic Center.

S1149 LOOK UP GASTON FUNDS

Sixteen thousand dollars (\$16,000) to the Look Up Gaston Foundation, Inc., for community projects that will continue to develop the systematic cooperation among Gaston County Communities that has already greatly improved the lives of the people of Gaston County.

S1150 RUTHERFORD ARTS COUNCIL FUNDS

Six thousand dollars (\$6,000) to the Rutherford County Arts Council, Inc., for operating expenses of the Council incurred in making the arts accessible to the public.

S1151 LINCOLN COUNTY HISTORICAL ASSOCIATION FUNDS

Eight thousand dollars (\$8,000) to the Lincoln County Historical Association, Inc., for operating expenses to continue its work of making the history of Lincoln County known to the public, and of making historic buildings accessible to the public.

S1152 RUTHERFORD SHELTER FUNDS

Eight thousand dollars (\$8,000) to Prevention of Abuse in the Home, Inc., for its domestic violence program in Rutherford County.

S1155 POST DETENTION ADVOCATES FUNDS

Six thousand seven hundred dollars (\$6,700) to the Guilford County Juvenile Detention Center for the Post Detention Advocates Program, to help operate the program for providing adult volunteers to work continuously with troubled youth in providing them a greater level of stability, self-esteem, and social adjustment.

S1157 PERSON COUNTY HOSPITAL FUNDS

Twenty thousand dollars (\$20,000) to Person County for the Person County Memorial Hospital, Incorporated, modernization program to enable the hospital to serve better the health needs of all the people of the region.

S1158 LAWSON CREEK BOAT RAMP FUNDS

Nineteen thousand five hundred dollars (\$19,500) to the City of New Bern to improve the launching facilities at Lawson Creek Park, provided the City of New Bern agrees to lease the subject facilities to the State or to an appropriate agency of the State for a mutually agreeable term. These launching facilities are in constant use by fishing and boating enthusiasts from all over Eastern North Carolina throughout the year and are in dire need of repair.

S1159 TRI-COUNTY ADAP FUNDS

Fifty-five thousand dollars (\$55,000) to the Tri-County Area Mental Health, Mental Retardation, and Substance Abuse Authority for the ADAP Program.

S1161 PARKWAY PLAYHOUSE FUNDS

Fifteen thousand dollars (\$15,000) to Parkway Playhouse of Burnsville, Inc., for repairs to the buildings used by the Playhouse and by other civic organizations to the cultural and social benefit of Yancey County.

S1163 MEBANE RECREATION FUNDS

Fifty thousand dollars (\$50,000) to the Town of Mebane to renovate the Archie Walker Fieldhouse, make improvements to the Archie Walker Field, purchase recreation equipment, and provide funds for the town's recreation programs.

S1164 RICHLANDS TENNIS COURTS FUNDS

Nineteen thousand nine hundred ninety dollars (\$19,990) to Onslow County to build four tennis courts at Richlands High School.

S1165 ONSLOW COUNTY WOMEN'S CENTER FUNDS

Sixteen thousand six hundred seventy dollars (\$16,670) to the Onslow County Women's Center, Inc., to assist with the costs of providing shelter for abused women.

S1166 CAPE FEAR REGIONAL THEATRE FUNDS

One hundred forty thousand dollars (\$140,000) to the Cape Fear Regional Theatre at Fayetteville, Inc., for renovation and land acquisition that will enable the Theatre better to serve the public of the region.

S1168 AFTER-SCHOOL FUNDS

- (1) Five thousand twenty dollars (\$5,020) to the Transylvania County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (2) Eleven thousand five hundred dollars (\$11,500) to the Henderson County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (3) Four thousand dollars (\$4,000) to the Hendersonville City Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (4) Two thousand five hundred dollars (\$2,500) to the Swain County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (5) Two thousand five hundred dollars (\$2,500) to the Graham County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (6) Two thousand dollars (\$2,000) to the Clay County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (7) Four thousand dollars (\$4,000) to the Macon County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (8) Four thousand dollars (\$4,000) to the Jackson County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (9) Three thousand dollars (\$3,000) to the Cherokee County Board of Education to be used for either after-school programs for students or dropout prevention programs.

- (10) Thirteen thousand dollars (\$13,000) to the Haywood County Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (11) Two thousand dollars (\$2,000) to the Tryon City Board of Education to be used for either after-school programs for students or dropout prevention programs.
- (12) Four thousand dollars (\$4,000) to the Polk County Board of Education to be used for either after-school programs for students or dropout prevention programs.

S1169 LICKLOG PLAYERS FUNDS

Eight thousand three hundred twenty dollars (\$8,320) to the Licklog Players for capital improvements to the Players' playhouse in Hayesville.

S1173 ROCK HILL SAFETY EQUIPMENT FUNDS

Thirty-six thousand dollars (\$36,000) to the Haywood County Board of Education, for Rock Hill School, to contract for safety protection.

S1174 SCHOOL ENRICHMENT FUNDS

- (1) Two thousand five hundred dollars (\$2,500) to the Transylvania County Board of Education for enrichment of the school programs.
- (2) Two thousand five hundred dollars (\$2,500) to the Henderson County Board of Education for enrichment of the school programs.
- (3) One thousand five hundred (\$1,500) to the Hendersonville City Board of Education for enrichment of the school programs.
- (4) One thousand two hundred fifty dollars (\$1,250) to the Swain County Board of Education for enrichment of the school programs.
- (5) One thousand two hundred fifty (\$1,250) to the Graham County Board of Education for enrichment of the school programs.
- (6) One thousand two hundred fifty dollars (\$1,250) to the Clay County Board of Education for enrichment of the school programs.
- (7) Two thousand five hundred dollars (\$2,500) to the Macon County Board of Education for enrichment of the school programs.
- (8) Two thousand five hundred dollars (\$2,500) to the Jackson County Board of Education for enrichment of the school programs.
- (9) Two thousand five hundred dollars (\$2,500) to the Cherokee County Board of Education for enrichment of the school programs.
- (10) Three thousand nine hundred seventy-five dollars (\$3,975) to the Haywood County Board of Education for enrichment of the school programs.
- (11) One thousand dollars (\$1,000) to the Tryon City Board of Education for enrichment of the school programs.
- (12) One thousand two hundred fifty dollars (\$1,250) to the Polk County Board of Education for enrichment of the school programs.

S1175 VALLEY TOWN ARTS COUNCIL FUNDS

Ten thousand dollars (\$10,000) to the Valleytown Cultural Arts and Historical Society, Inc., to promote the arts.

S1176 EAST TRADE STREET YWCA FUNDS

Two thousand five hundred dollars (\$2,500) Young Women's Christian Association of Charlotte, N. C., Inc., for the East Trade Branch to fund a teen hotline to assist in pregnancy prevention and to provide an open ear for other teenagers.

S1177 SCOTLAND LITERACY FUNDS

Ten thousand dollars (\$10,000) to Scotland County for the Scotland County Literacy Council, for operating expenses incurred in encouraging improved literacy and in enabling people who were illiterate to gain essential literacy skills.

S1178 RICHMOND ARTS COUNCIL FUNDS

Three thousand dollars (\$3,000) to Richmond County for the Richmond Arts Council, to support arts projects in Richmond County.

S1179 THE JESSE RANKIN HOUSE FUNDS

Ten thousand dollars (\$10,000) to Caldwell County to provide funds to move, restore, refurnish and reuse the historic Reverend Jesse Rankin House as an historic site open to the public, provided local funds are raised to match this appropriation on a dollar-for-dollar basis.

S1181 FOURTH OF JULY FESTIVAL FUNDS

Five thousand dollars (\$5,000) to the City of Southport to sponsor the annual Fourth of July Festival in Southport.

S1182 WATERMELON/FARMER FESTIVAL FUNDS

Two thousand dollars (\$2,000) to The Greater Fair Bluff Chamber of Commerce to sponsor the annual Watermelon Festival and the annual Farmers' Festival in Fair Bluff.

S1183 STRAWBERRY FESTIVAL FUNDS

Two thousand dollars (\$2,000) to the North Carolina Strawberry Festival at Chadbourne, N. C., Inc., to sponsor the annual Strawberry Festival in Chadbourn.

S1184 TABOR CITY REVITALIZATION FUNDS

Seven thousand five hundred dollars (\$7,500) to the Tabor City Committee of 100, Inc., to revitalize downtown Tabor City.

S1185 GOOD SHEPHERD HOME FUNDS

Ten thousand dollars (\$10,000) to the Good Shepherd Home, Inc., to help persons suffering from alcohol and drug dependency who are being treated at the Good Shepherd Home in Lake Waccamaw.

S1186 YAM FESTIVAL FUNDS

Two thousand five hundred dollars (\$2,500) to the North Carolina Yam Festival at Tabor City, North Carolina, Inc., to sponsor the annual Yam Festival at Tabor City.

S1187 COLUMBUS SENIOR CENTER/WHITEVILLE RESCUE FUNDS

- (1) Five thousand dollars (\$5,000) to Columbus County, to improve the parking lot at the Columbus County Senior Citizens Center at Whiteville.
- (2) One thousand dollars (\$1,000) to the Whiteville Rescue Squad, for equipment and operating expenses. This appropriation is to correct an appropriation error from last year.

S1188 BOGUE AREA BETTERMENT FUNDS

One thousand dollars (\$1,000) to the Bogue Area Betterment Council to improve community recreational facilities in the Bogue Area.

S1189 COLUMBUS HOSPICE FUNDS

Two thousand five hundred dollars (\$2,500) to Columbus County Hospice, Incorporated, to assist the terminally ill in Columbus County.

S1190 COLUMBUS ROAD SIGN FUNDS

Seven thousand five hundred dollars (\$7,500) to Columbus County to name and mark with identifying signs the primary and secondary roads throughout Columbus County.

S1191 TABOR CITY CLUB FIFTEEN FUNDS

Two thousand dollars (\$2,000) to the Club Fifteen Civic League of Tabor City, North Carolina, Inc., to furnish the community center in Tabor City.

S1192 COLUMBUS LIBRARY FUNDS

Five thousand dollars (\$5,000) to the Columbus County Public Library to be divided equally among the main library in Whiteville, the East Columbus County Library Branch in Riegelwood, the Fair Bluff Community Library Branch, and the Tabor City Public Library Branch, and to be used to support the public libraries in Columbus County.

S1193 DURHAM ARTS COMPLEX FUNDS

Fifty thousand dollars (\$50,000) to The Durham Arts Council, Inc., for the Durham Downtown Arts Complex.

S1195 CHARLOTTE-METROLINA SICKLE CELL FUNDS

Five thousand dollars (\$5,000) to the Association for Sickle Cell Disease for Charlotte-Metrolina, Inc., for screening, testing, outreach, and treatment.

S1196 SAFE FUNDS

Ten thousand dollars (\$10,000) to SAFE, Inc., a shelter for battered spouses and children located on Caswell Center grounds, but operating as a separate nonprofit, tax exempt entity.

S1197 DALLAS BEAUTIFICATION/RENOVATION FUNDS

Ten thousand dollars (\$10,000) to the Town of Dallas for beautification and renovation projects.

S1198 GASTON COUNTY MUSEUM FUNDS

Twenty-five thousand dollars (\$25,000) to Gaston County for capital improvements to the Gaston County Museum of Art and History in Dallas.

S1199 LOWELL RECREATION FUNDS

Five thousand dollars (\$5,000) to the City of Lowell for the operating expenses of the Recreation Department.

S1200 SCHIELE MUSEUM FUNDS

Twenty-five thousand dollars (\$25,000) to the Schiele Museum of Natural History and Planetarium, Inc., in Gastonia for capital improvements to the museum.

S1201 CLEVELAND ABUSE PREVENTION FUNDS

Seven thousand dollars (\$7,000) to the Cleveland County Abuse Prevention Council, Inc., in Shelby for programs for abused persons.

S1202 SHELBY BOYS TOWN FUNDS

Five thousand dollars (\$5,000) to the Cleveland County Boys Club, Inc., for the Shelby Chapter, for operating expenses for programs that serve disadvantaged and troubled youth.

S1203 CLEVELAND VOCATIONAL INDUSTRIAL FUNDS

Fifteen thousand dollars (\$15,000) to the Cleveland Vocational Industries, Inc., for equipment and operating expenses.

S1204 KINGS MOUNTAIN BOYS TOWN FUNDS

Five thousand dollars (\$5,000) to the Cleveland County Boys Club, Inc., for the Kings Mountain Chapter, for operating expenses and general support of its programs that serve disadvantaged and troubled youth.

S1205 CHILD ABUSE PREVENTION FUNDS

Seven thousand dollars (\$7,000) to the Child Abuse Prevention Services, Inc., for operating costs of their child abuse prevention programs.

S1206 CRAMERTON RECREATION FUNDS

Seven thousand dollars (\$7,000) to the Town of Cramerton to make capital improvements to the Town's recreation facilities and to support the recreation programs of the Town.

S1207 WESTERN CAROLINA CENTER FUNDS

Seventeen thousand dollars (\$17,000) to the Western Carolina Center of Burke County, to build a tram to provide transportation for chronically disabled people from one building to another.

S1208 RAINBOW SERVICES FUNDS

One thousand dollars (\$1,000) to the Board of Governors of The University of North Carolina for the Rainbow Services Program at the East Carolina University School of Medicine, to provide therapeutic recreation programs and activities for children with cancer and other chronic blood disorders.

S1209 BEAUFORT/HYDE/MARTIN/AURORA LIBRARY FUNDS

- (1) One thousand five hundred dollars (\$1,500) to the B H M Regional Library System for operating expenses and to purchase books.
- (2) One thousand five hundred dollars (\$1,500) to the Hazel W. Guilford Memorial Library, located in Aurora, Beaufort County, for operating expenses and to purchase books.

S1210 PITT/MARTIN/BEAUFORT REACTION AND EMERGENCY FUNDS

- (1) Fourteen thousand one hundred ten dollars (\$14,110) to Beaufort County, for the purchase of equipment and capital expenses for emergency reaction and emergency preparedness.
- (2) Four thousand one hundred fifty dollars (\$4,150) to Martin County, for the purchase of equipment and capital expenses for emergency reaction and emergency preparedness.
- (3) Thirteen thousand seven hundred forty dollars (\$13,740) to Pitt County, for the purchase of equipment and capital expenses for emergency reaction and emergency preparedness.

S1211 TRI-COUNTY SPOUSE ABUSE FUNDS

One thousand five hundred dollars (\$1,500) to Beaufort, Martin, and Hyde Counties, to be divided equally among the counties, for Tri-County Spouse Abuse Services for operating expenses.

S1212 BLACKBEARD DRAMA FUNDS

Three thousand five hundred dollars (\$3,500) to the Committee for an Outdoor Drama at Bath, Inc., to produce the outdoor drama "Blackbeard-The Knight of the Black Flag".

S1213 MARTIN COMMUNITY PLAYERS FUNDS

Three thousand five hundred dollars (\$3,500) to the Martin Community Players, Inc., located in Williamston, for operating expenses incurred in promoting the arts in the region.

S1214 PITT FARMERS' MARKET FUNDS

Three thousand dollars (\$3,000) to Pitt County for construction of the Pitt County Farmers' Market.

S1215 PITT CHILD DEVELOPMENT CENTER FUNDS

One thousand nine hundred dollars (\$1,900) to the Pitt County Mental Health Center for the Child Development Center, to provide services to additional children in need.

S1216 MORATOC PARK FUNDS

One thousand five hundred dollars (\$1,500) to Martin County for improvements to the Moratoc Park grounds and buildings and for operating expenses.

S1217 MARTIN CHAMBER FUNDS

Two thousand five hundred dollars (\$2,500) to the Martin County Chamber of Commerce, Inc., for economic development.

S1218 PITT FAMILY VIOLENCE FUNDS

Three thousand dollars (\$3,000) to the Pitt County Family Violence Program for operating expenses.

S1219 BEAR GRASS/JAMESVILLE FUNDS

- (1) One thousand dollars (\$1,000) to the Town of Bear Grass for operating and capital expenses.

- (2) One thousand dollars (\$1,000) to the Town of Jamesville for operating and capital expenses.

S1221 OCI DAY PROGRAM FUNDS

Two thousand dollars (\$2,000) to Pitt County for the Preschool Developmental Program.

S1222 SHEPPARD LIBRARY FUNDS

Three thousand dollars (\$3,000) to the City of Greenville for use by the Sheppard Memorial Library, one thousand dollars (\$1,000) of which shall be available only for the children's library and the remaining two thousand dollars (\$2,000) for the general library.

S1223 GREATER WASHINGTON CHAMBER FUNDS

Three thousand dollars (\$3,000) to Greater Washington Chamber of Commerce, Inc., for promoting the economic development of all the citizens in the region.

S1224 VOLUNTEERS IN PARTNERSHIP FUNDS

One thousand five hundred dollars (\$1,500) to the Board of Governors of The University of North Carolina for the Volunteers in Partnership with Parents in Martin County, administered through the East Carolina University School of Medicine, to provide services to retarded children and their families.

S1225 PITT BOYS' CLUB FUNDS

Two thousand dollars (\$2,000) to Boys' Club of Pitt County, Inc., for purchase of equipment.

S1226 CHILD CARE NETWORKS FUNDS

Five thousand dollars (\$5,000) to Child Care Networks, Inc., for child service programs of the corporation.

S1227 RANDOLPH HOSPICE FUNDS

Five thousand dollars (\$5,000) to Hospice of North Carolina, Inc., for the Randolph County Chapter to assist the terminally ill and their families in Randolph County.

S1228 SILER CITY HISTORY FUNDS

Two thousand dollars (\$2,000) to the Town of Siler City to assist in the publication of a history of the Town of Siler City and other expenses incurred for the Centennial Celebration in 1987.

S1229 ORANGE/PERSON/CHATHAM MENTAL HEALTH FUNDS

Two thousand dollars (\$2,000) to the Orange-Person-Chatham Area Mental Health, Mental Retardation, and Substance Abuse Authority for operating expenses.

S1230 COMMUNITY SHELTER PROJECT FUNDS

Two thousand dollars (\$2,000) to Inter-Church Council for Social Service, Inc., for operating funds for the Community Shelter Project.

S1231 PINETREE ENTERPRISES FUNDS

Five thousand five hundred dollars (\$5,500) to Pinetree Enterprises, located in Moore County, to help mentally and physically handicapped adults.

S1232 MOORE PERFORMING ARTS CENTER FUNDS

Five thousand dollars (\$5,000) to Moore County for Moore County Arts Council, for capital improvements to the Performing Arts Center in Moore County and operating expenses of the Performing Arts Center incurred in promoting and producing the performing arts in Moore County and the surrounding area.

S1233 ORANGE SHELTERED WORKSHOP FUNDS

Two thousand dollars (\$2,000) to Orange Enterprises, Incorporated, for operating expenses of the sheltered workshop.

S1234 MOORE LIBRARY FUNDS

Five thousand dollars (\$5,000) to Sandhill Regional Library to expand the Moore County Library in Carthage and the services offered by that Library.

S1235 CARTHAGE MUSEUM/COMMUNITY FUNDS

Two thousand dollars (\$2,000) to the Town of Carthage to renovate the McDonald Building for use as the Carthage Historical Museum as well as a public meeting facility for the Town.

S1236 SANDHILLS HOSPICE FUNDS

Five thousand dollars (\$5,000) to Sandhills Hospice, Inc., to assist the terminally ill and their families.

S1237 MALCOLM BLUE FARM FUNDS

One thousand dollars (\$1,000) to The Malcolm Blue Historical Society to repair the barns at the Malcolm Blue Farm in Moore County to increase the historic and educational interest of the Farm for the public.

S1238 CRYSTAL LAKE DAM FUNDS

Ten thousand dollars (\$10,000) to Crystal Lake "Support", Inc., to repair the Crystal Lake Dam to ensure the future impoundment of water in the dam in Moore County.

S1239 GREENE CENTRAL BAND UNIFORMS FUNDS

Five thousand dollars (\$5,000) to Greene Central High School for the Greene Central High Band Booster Club to buy uniforms.

S1240 WAYNE POULTRY FESTIVAL/GRAPE GROWERS' FUNDS

- (1) Five thousand dollars (\$5,000) to the Goldsboro Chamber of Commerce and Merchants Association, Incorporated, for expenses of the Poultry Festival.
- (2) Ten thousand dollars (\$10,000) to the Department of Agriculture, to fund the establishment of the North Carolina Grape Growers' Council, established by Article 59 of Chapter 106 of the General Statutes.

S1241 GOLDSBORO SCHOOL FUNDS

Five thousand dollars (\$5,000) to the Goldsboro City Board of Education for uniforms, equipment, and camping expenses for the cheerleader squads, to be paid out over a three year period at the discretion of the Board.

S1242 WAYNE HISTORICAL ASSOCIATION FUNDS

Five thousand dollars (\$5,000) to the Wayne County Historical Association for Waynesboro Park.

S1243 GREENE COMMITTEE OF 100 FUNDS

Forty thousand dollars (\$40,000) to the Greene County Committee of 100 for construction of a shell building to be used for community gatherings.

S1244 WAYNE SCHOOL FUNDS

Five thousand dollars (\$5,000) to the Wayne County Board of Education for band instruments for the Wayne County Schools.

S1245 CHATHAM AGING FUNDS

Two thousand dollars (\$2,000) to the Chatham County Council on Aging, Inc., for service programs of the Council which benefit both the elderly and the entire community.

S1246 CHATHAM CHILD DEVELOPMENT CENTER FUNDS

One thousand dollars (\$1,000) to the Chatham County Child Development Center, Inc., for child development service programs of the Center.

S1247 JOCCA FUNDS

Two thousand dollars (\$2,000) to The Joint Orange-Chatham Community Action, Inc., for the community service programs of the Agency.

S1249 JORDAN LAW ENFORCEMENT FUNDS

Fifteen thousand dollars (\$15,000) to Chatham County for providing law enforcement services in and around the Jordan Lake area and providing other services incident to the operation of the State Park facility at Jordan Lake.

S1250 CHATHAM WHITE PINES FUNDS

Ten thousand dollars (\$10,000) to Triangle Land Conservancy to assist with the purchase of a wilderness tract in Chatham County of especial historical, botanical and environmental significance known as White Pines.

S1251 ORANGE/PERSON/CHATHAM MENTAL HEALTH FUNDS

Ten thousand dollars (\$10,000) to the Orange-Person-Chatham Area Mental Health, Mental Retardation and Substance Abuse Authority for the purpose of providing a Transitional Residential Facility for the Homeless Chronically Mentally Ill in Orange County, and establishing a Community Support Day Program for the Chronically Mentally Ill in Orange County. The Authority may contract for these services.

S1252 CHATHAM HISTORIC PUBLICATION FUNDS

Two thousand five hundred dollars (\$2,500) to Chatham County for use by the Chatham County Planning Department for publication of the Chatham County Historic Architecture Survey.

S1253 RANDOLPH LIBRARY FUNDS

Five thousand dollars (\$5,000) to the Randolph Public Library to support the public programs of the Library.

S1254 RANDOLPH ARTS GUILD FUNDS

Fifteen thousand dollars (\$15,000) to The Randolph Arts Guild to support the public arts service programs of the Guild.

S1255 RANDOLPH SPOUSE ABUSE FUNDS

Five thousand dollars (\$5,000) to the Randolph County Family Crisis Center, Inc., to support the Center's spouse abuse programs.

S1258 ART SCHOOL FUNDS

Ten thousand dollars (\$10,000) to The Art School, in Carrboro, to support the public arts service programs of the school.

S1261 GREENE HIGH SCHOOL ATHLETIC CLUB FUNDS

Five thousand dollars (\$5,000) to Greene Central High School for the Athletic Booster Club to make necessary improvements to the lighting system for the baseball field.

S1264 WUNC RADIO FUNDS

Four thousand dollars (\$4,000) to the North Carolina Agency for Public Telecommunications to support WUNC Public Radio Station at The University of North Carolina at Chapel Hill.

S1265 CHATHAM HOSPICE FUNDS

Five thousand dollars (\$5,000) to Hospice of Chatham County, Inc., for operating expenses incurred in continuing its vital services to the terminally ill and their families.

S1266 PITTSBORO BICENTENNIAL FUNDS

Two thousand dollars (\$2,000) to the Town of Pittsboro for its bicentennial celebration.

S1275 UNC/WCQS FUNDS

Forty-one thousand two hundred fifty dollars (\$41,250) to the Board of Governors of The University of North Carolina for The University of North Carolina at Asheville, to develop and expand WCQFM, in accordance with plans developed by Western Carolina Public Radio, Incorporated, for capital expenses and for operating expenses, to develop and expand WCQFM Public Radio to serve the counties of Buncombe, Haywood, Henderson, Jackson, Macon, Madison, and Transylvania, and to study the feasibility of extending the service to the Cherokee Indian Reservation and the counties of Cherokee, Clay, Graham, and Swain.

S1278 NASH CULTURAL CENTER FUNDS

Fifteen thousand dollars (\$15,000) to the Nash County Cultural Center, Inc., for its cultural and social programs for Nash County and surrounding areas.

S1288 OREGON INLET COMMISSION FUNDS

Twenty thousand dollars (\$20,000) to the Oregon Inlet Commission established by Article 10 of Chapter 143B of the General Statutes, to fund the Commission.

H1358 SAMPSON/PENDER PROJECT FUNDS

- (1) Two thousand dollars (\$2,000) to Senior Citizen Services of Pender, Inc., for operating expenses incurred in providing vital services for the senior citizens of the Town of Burgaw and Pender County.
- (2) Five thousand dollars (\$5,000) to the Department of Community Colleges, for Sampson Technical College, for equipment.
- (3) Two thousand dollars (\$2,000) to Pender County, for repairs to the Rocky Point Community Building.
- (4) Two thousand dollars (\$2,000) to Pender County, for playground equipment.
- (5) Five thousand dollars (\$5,000) to the Sampson County Prison Chaplaincy Program, for a chapel building to serve the prison inmates.
- (6) Five thousand dollars (\$5,000) to the Pender County Historical Society, Inc., for renovations to the historic Pender County Depot.
- (7) Two thousand dollars (\$2,000) to the Burgaw Fire Department, for operating expenses and equipment.
- (8) Ten thousand dollars (\$10,000) to the City of Clinton Board of Education, for an air conditioner for the Clinton Auditorium.
- (9) Two thousand dollars (\$2,000) to the City of Clinton, for improvements to the Clinton Civic Center.

H1369 WAKE PROJECT FUNDS

- (1) Ten thousand dollars (\$10,000) to the City of Raleigh for the International Festival, for operating expenses.
- (2) Ten thousand dollars (\$10,000) to The Garner Road Young Men's Christian Association, Incorporated, in Wake County, for operating expenses for its family counselling program.
- (3) Fifteen thousand dollars (\$15,000) to the Artspace, Inc., in Wake County as a grant-in-aid, for operating expenses to promote and encourage the arts.
- (4) Two thousand five hundred dollars (\$2,500) to the Faith Community Camp, Inc., in Wake County for a grant-in-aid, for operating expenses to provide Wake County children opportunities to attend camp.
- (5) Four thousand dollars (\$4,000) to the Wake County Health Department for innovative programs in Raleigh for teen pregnancy prevention.
- (6) Three thousand dollars (\$3,000) to the Tammy Lynn Memorial Foundation, Inc., to assist with its special child care programs.
- (7) Two thousand five hundred dollars (\$2,500) to the Wake County Council On Aging, Inc., for its community service programs for senior citizens.

- (8) Seven thousand dollars (\$7,000) to Wake County Opportunities, Inc., for operating expenses for its many community service programs.

H1425 CLAY COUNTY SEWER FUNDS

Ten thousand dollars (\$10,000) to Clay County for the completion of the public sewer line to the Clay County Industrial Park, provided that Clay County raises a like amount to match this appropriation on a dollar-for-dollar basis.

H1427 WARNE FIRE DEPARTMENT FUNDS

Three thousand six hundred dollars (\$3,600) to the Warne Volunteer Fire Department, Inc., of Clay County to help pay off the mortgage on property owned and used by the Department for departmental purposes.

H1429 HIWASSEE DAM BAND FUNDS

Three thousand six hundred dollars (\$3,600) to Hiwassee Dam High School in Cherokee County for the purchase of band uniforms.

H1430 MADISON AMBULANCE FUNDS

Thirty-seven thousand five hundred dollars (\$37,500) to Madison County to purchase an ambulance and related equipment.

H1432 HAYWOOD HOSPICE FUNDS

Ten thousand dollars (\$10,000) to Hospice of Haywood County, to establish a permanent rotating fund for the corporation, thereby enabling the corporation to meet its cash-flow needs in providing services to terminally ill patients and their families.

H1434 NEW HOPE VOLUNTEER FIRE DEPARTMENT FUNDS

Six thousand five hundred dollars (\$6,500) to the New Hope Volunteer Fire Department, Inc., of Gaston County for operating expenses and equipment.

H1435 HIGH SHOALS YOUTH CENTER FUNDS

Six thousand five hundred dollars (\$6,500) to the City of High Shoals to remodel and furnish a youth recreation center.

H1436 CHERRYVILLE PARKS FUNDS

Six thousand five hundred dollars (\$6,500) to the City of Cherryville in Gaston County for the Parks and Recreation Department's development of facilities.

H1437 LINCOLN WILDLIFE ORPHANAGE FUNDS

Five thousand five hundred dollars (\$5,500) to the Lincoln Wildlife Orphanage, Incorporated, to assist in the caring of injured wildlife so that the animals may be returned to their natural habitats.

H1439 RALEIGH LITTLE THEATRE FUNDS

Ten thousand dollars (\$10,000) to the Raleigh Little Theatre, Inc., for the Raleigh Little Theatre Expansion Program, to assist in constructing a new teaching theatre, modernizing the existing facility, and establishing an endowment that will fund educational programs offered through the Raleigh Little Theatre.

H1453 TARBORO SESSION FUNDS

Two thousand dollars (\$2,000) to the General Assembly to implement Resolution 29 of the 1985 Session Laws, calling for a one-day convening of the 1987 General Assembly in the Town of Tarboro, to commemorate the two hundredth anniversary of the 1787 General Assembly Session which met in Tarboro.

H1457 CATAWBA CHILDREN'S STUDY FUNDS

Four thousand dollars (\$4,000) to Catawba County Department of Social Services for printing of the findings of the task force on the state of the child in Catawba County, and related expenses.

H1463 TOWN CREEK PROJECT FUNDS

Twenty-three thousand dollars (\$23,000) to the Edgecombe Soil and Water Conservation District for continuation of the Clean Creeks County Project on Town Creek.

H1473 PENN CIVIC CENTER FUNDS

Ten thousand dollars (\$10,000) to the City of Reidsville for renovations to the Penn Civic Center.

H1480 DAVIE FIRE CENTER FUNDS

Twenty thousand dollars (\$20,000) to the Davie County Volunteer Firemen's Association, Inc., for the construction in Davie County of a fire training center provided that a like amount in cash is raised by the Davie County Volunteer Firemen's Association to match the grant-in-aid on a dollar-for-dollar basis.

H1485 VANCE 911 FUNDS

Eight thousand dollars (\$8,000) to the City of Henderson to fund a 911 emergency communications center to serve the City of Henderson and Vance County.

H1486 WESTERN DEVELOPMENTAL CENTER FUNDS

Thirty-five thousand dollars (\$35,000) to the Department of Human Resources, Division of Health Services, to fund additional positions at the Developmental Evaluation Center at Western Carolina University.

H1491 OPPORTUNITY, INC., FUNDS

Twenty-four thousand dollars (\$24,000) to Franklin-Vance-Warren Opportunity, Inc., for operating expenses incurred in providing individual services to elderly, disadvantaged, and low-income citizens.

H1497 FOURTH OF JULY FESTIVAL FUNDS

Two thousand five hundred dollars (\$2,500) to the City of Southport to sponsor the annual Fourth of July Festival in Southport.

H1498 GRISSETTOWN-LONGWOOD VOLUNTEER FIRE DEPT. FUNDS

Ten thousand dollars (\$10,000) to the Grissettown-Longwood Volunteer Fire Department, Inc., located in Brunswick County, for capital improvements to the fire department.

H1500 CAPE FEAR TOWNSHIP VOLUNTEER FIRE DEPT. FUNDS

(1) Two thousand dollars (\$2,000) to the Castle Hayne Volunteer Fire Department, Inc., for operating expenses and equipment.

- (2) Two thousand dollars (\$2,000) to the Wrightsboro Volunteer Fire Department, Inc., for operating expenses and equipment.

H1502 STATESVILLE FARMERS MARKET FUNDS

Twelve thousand dollars (\$12,000) to the Downtown Statesville Development Corporation, Inc., for portable canopies, restroom facilities, signs, and other improvements for the Statesville Farmers Market.

H1504 RHODODENDRON FESTIVAL FUNDS

Five thousand dollars (\$5,000) to The North Carolina Rhododendron Festival, Inc., to sponsor the Rhododendron Festival in Mitchell County.

H1505 MITCHELL AFTER-SCHOOL PROGRAM FUNDS

Five thousand dollars (\$5,000) to the Mitchell County Board of Education to initiate an after-school child-care program at the Gouge Primary School in Bakersville and the Deyton Primary School in Spruce Pine.

H1506 AVERY ARTS FUNDS

Ten thousand dollars (\$10,000) to the Avery Arts Council, Incorporated, of Newland, Avery County, for operating expenses, to enable the Council to bring the arts to more people in the county than ever before.

H1516 ARCHBELL HOUSE FUNDS

Fifteen thousand dollars (\$15,000) to the Lenoir County Historical Association, Inc., to restore the historic Archbell House, located in Kinston, for use as a public museum.

H1517 LENOIR/KINSTON AIRPORT FUNDS

Sixteen thousand dollars (\$16,000) to the Lenoir County-City of Kinston Airport Commission to pave a vehicle parking lot adjacent to the airport's general aviation facility.

H1518 BLANDWOOD MANSION-REPAIR FUNDS

Twenty-seven thousand five hundred dollars (\$27,500) to the Greensboro Preservation Society to repair the roof of Blandwood Mansion.

H1519 EASTERN MUSIC FESTIVAL FUNDS

Seventeen thousand five hundred dollars (\$17,500) to the Department of Cultural Resources to provide funds for the Eastern Music Festival in Greensboro, North Carolina.

H1523 DRY RIDGE MUSEUM FUNDS

One thousand dollars (\$1,000) to The Dry Ridge Historical Museum, Inc., for a bathroom at the Dry Ridge Historical Museum.

H1526 CRAVEN COURTHOUSE FUNDS

Five thousand dollars (\$5,000) to Craven County to provide funds to complete the renovation of the Craven County Courthouse, a project begun three years ago on this 102 year-old historical structure.

H1527 WTEB OPERATING FUNDS

Seventy-two thousand dollars (\$72,000) to the Department of Community Colleges for operating expenses of WTEB Public Radio Station at Craven Community College.

H1530 MACON NIKWASSI CENTER FUNDS

Seven thousand one hundred dollars (\$7,100) to The Franklin Area Chamber of Commerce, Inc., in Macon County to plan the Nikwassi Center, a complex to include a welcome center, a music center, an amphitheater, a museum, exhibits of arts and crafts and Indian artifacts, forestry and agricultural displays, and similar exhibits and activities.

H1532 BURKE ALCOHOLISM COUNCIL FUNDS

Five thousand dollars (\$5,000) to the Burke County Council on Alcoholism, Inc., to continue to provide substance abuse education and prevention classes in the various schools in Burke County.

H1533 "FROM THIS DAY FORWARD" FUNDS

Five thousand dollars (\$5,000) to The Outdoor Theatre Fund Charitable Trust to produce the outdoor drama "From This Day Forward."

H1535 MORGANTON/BURKE SENIOR CENTER FUNDS

Ten thousand dollars (\$10,000) to the City of Morganton for capital improvements to the Morganton/Burke Senior Center at Western Piedmont Community College.

H1537 VALDESE GRIST MILL RESTORATION FUNDS

Five thousand dollars (\$5,000) to the Town of Valdese for the Valdese Recreation Commission, to restore the historic grist mill at McGallard Falls Park.

H1538 BURKE-MCDOWELL HOUSE RESTORATION FUNDS

Ten thousand dollars (\$10,000) to the Historic Burke Foundation, Inc., for the restoration of the McDowell House, the oldest surviving structure in Burke County.

H1541 CHALLENGE HEATING FUNDS

Ten thousand dollars (\$10,000) to The United Way of Alamance County, North Carolina, Inc., for "The Challenge Heating Fund", to provide emergency fuel assistance for low income or disadvantaged persons.

H1543 ROBERT CLEVELAND LOG HOUSE FUNDS

Twenty thousand dollars (\$20,000) to Old Wilkes, Inc., in Wilkes County to reassemble the historic Captain Robert Cleveland log house after its relocation.

H1546 GREENE ADULT EDUCATION CENTER FUNDS

Five thousand dollars (\$5,000) to Greene County to upgrade and renovate a gymnasium at the Greene County Adult Education Center. This building shall be used for meetings of civic and community organizations, for school groups, and as a focal point for the entire community.

H1555 BLACK MOUNTAIN CHAMBER FUNDS

Twenty thousand dollars (\$20,000) to the Black Mountain-Swannanoa Chamber of Commerce, Inc., to complete the Chamber of Commerce Building, which shall be used to provide information and materials about the area to tourists, to organize and implement festivals, beautification efforts, and other activities that promote the economy and benefit the community, and to provide a meeting place for community groups.

H1563 PLEASANT GARDEN COMMUNITY CENTER FUNDS

Four thousand dollars (\$4,000) to Pleasant Garden Community Center, Inc., in Guilford County to enable the Pleasant Garden Community Center to continue its public service programs.

H1565 LIGHTHOUSE OUTREACH FUNDS

Five thousand dollars (\$5,000) to Lighthouse Outreach Ministries, Inc., of Guilford County for operation of a home for alcoholic women.

H1566 GUILFORD NATIVE AMERICAN FUNDS

Two thousand five hundred dollars (\$2,500) to the Guilford Native American Association, Inc., to provide funds for the Association's Center, which serves to provide help to Indian school dropouts, and which serves as a cultural and social center for the community as a whole.

H1567 GREENSBORO PREGNANT TEEN PROGRAM FUNDS

Six thousand dollars (\$6,000) to the Young Women's Christian Association of Greensboro, N.C., Inc., to fund a pregnant teen mentor program at the Davie Street YWCA.

H1568 GREENSBORO YOUTH SERVICES FUNDS

Three thousand four hundred dollars (\$3,400) to the Youth Services Bureau of Greensboro, Inc., to provide "big-brother" and other services for disadvantaged, troubled youths in Greensboro.

H1569 BELLE CHERE FESTIVAL FUNDS

Two thousand five hundred dollars (\$2,500) to the City of Asheville to sponsor the annual Belle Chere Street Festival.

H1574 FORK MOUNTAIN VOLUNTEER FIRE & RESCUE FUNDS

Five thousand dollars (\$5,000) to the Fork Mountain Volunteer Fire and Rescue, Inc., of Bakersville, for capital improvements, operating expenses and equipment.

H1577 CARTERET/ONSLow PHYSICAL EDUCATION FUNDS

- (1) Twenty-five thousand four hundred fifty dollars (\$25,450) to the Onslow County Board of Education to promote its high school physical education and athletic programs. The Onslow County Board of Education shall allocate these funds to the high schools based on their average daily membership in grades 9 through 12. The funds shall be expended in the discretion of the high schools for their physical education and athletic programs.
- (2) Eleven thousand two hundred fifty dollars (\$11,250) to the Carteret County Board of Education to promote its high school physical

education and athletic programs. The Carteret County Board of Education shall allocate these funds to the high schools based on their average daily membership in grades 9 through 12. The funds shall be expended in the discretion of the high schools for their physical education and athletic programs.

H1589 SALUDA-RESTORATION FACADE FUNDS

Fifteen thousand dollars (\$15,000) to the City of Saluda, Polk County, for restoration of the facade of the City Hall at Saluda.

H1595 HAMLET LIBRARY FUNDS

Three thousand five hundred dollars (\$3,500) to Friends of the Hamlet Public Library, Inc., to help fund construction of a new building.

H1596 RANKIN MUSEUM FUNDS

Three thousand five hundred dollars (\$3,500) to The Rankin Museum, Inc., to help establish a museum of American Heritage in Ellerbe, North Carolina.

H1599 ELIADA HOME FUNDS

Thirty thousand dollars (\$30,000) to Eliada Homes, Inc., for care of children at the Eliada Home for Children.

H1601 GATE CITY JUNIOR TENNIS ACADEMY FUNDS

Five thousand dollars (\$5,000) to the Gate City Junior Tennis Academy of Greensboro for tennis scholarships for disadvantaged youths.

H1603 SHAKESPEARE FESTIVAL FUNDS

Twenty-five thousand dollars (\$25,000) to the Department of Cultural Resources for festival promotion and operating expenses for the North Carolina Shakespeare Festival. This festival was designated by the General Assembly in 1978 as the "State Shakespeare Festival".

H1607 CRAVEN-CHERRY POINT AND OTHER LOCAL PROJECT FUNDS

- (1) Twenty-five thousand dollars (\$25,000) to the Craven-Cherry Point Child Development Center to provide funds to purchase a van that is vitally needed by the center to transport needy children to the center, to obtain the children's lunches from the Havelock Elementary School, and to have an emergency means of transportation available while the children are in attendance, as is required by the county.
- (2) Fifteen thousand dollars (\$15,000) to the Simmons-Nott Airport Authority for capital improvements.
- (3) Five thousand dollars (\$5,000) to the Pamlico Rescue Squad, Inc., for operating expenses and equipment.
- (4) Five thousand dollars (\$5,000) to the Pamlico County Fireman's Association, Incorporated, for operating expenses and equipment.
- (5) Five thousand dollars (\$5,000) to the United Tri-County Senior Citizens Corporation, Incorporated, for its community service programs.

H1612 ADA JENKINS SCHOOL RENOVATION FUNDS

Eight thousand dollars (\$8,000) to Mecklenburg County to renovate the cafeteria at the Ada Jenkins School in Davidson, site of the "Hot Meal Program", provided a like amount of non-State funds is raised by Mecklenburg County to match the appropriation on a dollar-for-dollar basis.

H1613 MECKLENBURG FIRE DEPT. FUNDS

Sixteen thousand dollars (\$16,000) to be divided equally among the fire departments in Mecklenburg County listed below:

- (1) Cornelius-Lemley Volunteer Fire Department, Inc.;
 - (2) Davidson Volunteer Fire Department;
 - (3) Derita Volunteer Fire Department, Inc.;
 - (4) Gilead Volunteer Fire Department;
 - (5) Huntersville Volunteer Fire Department, Inc.;
 - (6) Mallard Creek Volunteer Fire Department, Inc.;
 - (7) Newell Volunteer Fire Department, Inc.; and
 - (8) Statesville Road Volunteer Fire Department, Inc.
- These funds shall be used for operating expenses and equipment.

H1614 WFAE PUBLIC RADIO FUNDS

Eleven thousand dollars (\$11,000) to the Board of Governors of The University of North Carolina for the operating and capital expenses of Public Radio Station WFAE.

H1619 MADISON-BUNCOMBE OPPORTUNITY FUNDS

Two thousand dollars (\$2,000) to The Opportunity Corporation of Madison and Buncombe Counties to reduce the corporation's general fund deficit incurred in providing crisis intervention, health, educational, and other services to low-income persons in Madison and Buncombe Counties.

H1621 BUNCOMBE EMERGENCY NETWORK FUNDS

Five thousand dollars (\$5,000) to the Asheville-Buncombe Community Christian Ministry, Inc., for start-up costs in developing a central information sharing network for emergency assistance agencies that provide food, housing, fuel, and other basic necessities to needy households in Buncombe County.

H1622 ASHEVILLE SYMPHONY POPS FUNDS

Seven thousand five hundred dollars (\$7,500) to the Asheville Symphony Society, Inc., to be used by the Asheville Symphony Guild in sponsoring the Guild's annual Pops Concert. The primary purpose of the Pops Concert is to stage the awarding of the six winners of the Guild's Young Artist Competition and to provide an opportunity for the best three of the six winners to play with the Asheville Symphony Orchestra before a large audience. Funds raised in excess of the cost

of the concert are used for operating expenses of the Asheville Symphony Orchestra.

H1623 ASHEVILLE THEATRE FUNDS

Twenty-five thousand dollars (\$25,000) to the Asheville Community Theatre, Inc., for capital expenses of this important cultural and social community center, provided a like amount of non-State funds is raised by the Asheville Community Theatre, Inc., to match this appropriation on a dollar-for-dollar basis.

H1627 "SWORD OF PEACE" FUNDS

Thirty-two thousand dollars (\$32,000) to the Snow Camp Historical Drama Society, Incorporated, for the purpose of further developing and supporting the outdoor drama, "The Sword of Peace".

H1632 RUTHERFORD COUNTY GRANTS FUNDS

- (1) Two thousand five hundred dollars (\$2,500) to Rutherford County to plan and promote the 1987 bicentennial celebration for the Town of Rutherfordton.
- (2) Two thousand five hundred dollars (\$2,500) to Rutherford County for reference materials for the Rutherford-Regional Library.
- (3) Three thousand dollars (\$3,000) to Rutherford County for the Genealogy Society of Rutherford County for the research, filming and documentation of old land grants in Rutherford County.
- (4) Fifteen thousand dollars (\$15,000) to Rutherford County for the Rutherford County Firefighters Training Tower.
- (5) Two thousand five hundred dollars (\$2,500) to Rutherford County for general operation funds for the Rutherford County Arts Council to help promote public interest in the arts.
- (6) Four thousand dollars (\$4,000) to Rutherford County for PATH (Prevention of Abuse in the Home, Inc.) to assist in its community service projects.
- (7) Five thousand dollars (\$5,000) to Rutherford County for Hospice of Rutherford County for the care of the terminally ill in Rutherford County.

H1643 GREENSBORO HOLOCAUST FUNDS

Five hundred dollars (\$500.00) to the North Carolina Council on the Holocaust, Greensboro Chapter, for operating expenses incurred in developing a program of education and observance of the Holocaust.

H1659 FRANKLIN JAIL RENOVATION FUNDS

Twenty thousand dollars (\$20,000) to Franklin County to renovate the county jail.

H1662 ROCKINGHAM RECREATION FUNDS

One thousand seven hundred fifty dollars (\$1,750) to the Rockingham Recreation Foundation to maintain and improve community recreational facilities at Palisades Park.

H1667 LITTLETON COMMUNITY CENTER FUNDS

Five thousand dollars (\$5,000) to the Littleton Civic and Planning Association, Inc., for capital improvements to the Littleton Community Center.

H1668 GRANVILLE HOSPITAL FUNDS

Sixteen thousand dollars (\$16,000) to the Granville Hospital Foundation, Inc., for capital improvements for the Granville Hospital.

H1672 VARIOUS WAKE PROJECTS FUNDS

- (1) Three thousand two hundred fifty dollars (\$3,250) to the Radio Reading Services, Inc., to continue their services to the elderly and the blind citizens of Wake County.
- (2) Three thousand three hundred fifty dollars (\$3,350) to the New Hope Volunteer Fire Department, Inc., of Wake County for equipment and operating expenses.
- (3) Three thousand three hundred fifty dollars (\$3,350) to the Falls Volunteer Fire Department, Inc., of Wake County for equipment and operating expenses.
- (4) Three thousand three hundred fifty dollars (\$3,350) to the Hopkins Rural Fire Department, Inc., in Wake County for equipment and operating expenses.
- (5) Six thousand seven hundred dollars (\$6,700) to the Town of Wake Forest for continued operating expenses of the Wake Forest Senior Citizens Center.
- (6) Six thousand seven hundred dollars (\$6,700) to the Town of Zebulon for a town park.

H1673 ROWLAND DEPOT FUNDS

Seven thousand five hundred dollars (\$7,500) to the Department of Cultural Resources, Division of Archives and History, to be paid to the Rowland Historical Society, Inc., for the purpose of restoration of the Rowland Depot.

The activities associated with this appropriation shall be performed in accordance with the standards and guidelines for such projects established by the Division of Archives and History, and shall be conducted under the professional supervision of that agency.

H1681 RICHMOND ECONOMIC DEVELOPMENT FUNDS

Fourteen thousand dollars (\$14,000) to the Richmond Economic Development Corporation to provide funds to promote small business and industry in Richmond County and stimulate Richmond County's total economic development.

H1682 ROCKINGHAM ARTS FUNDS

Ten thousand dollars (\$10,000) to the Rockingham County Arts Council, Inc., as a grant-in-aid to the council to continue its work in promoting the arts.

H1683 MADISON COLORED/CHARLES DREW ALUMNI FUNDS

Five thousand dollars (\$5,000) to the Madison Colored and Charles Drew Alumni Association, Inc., to repair the building in which the Association and other community groups meet.

H1684 MADISON HISTORIC DISTRICT FUNDS

Ten thousand dollars (\$10,000) to the Madison Historic District Commission for the restoration projects of the Commission in the two historic districts in the Town of Madison.

H1698 HAMLET CONCERNED CITIZENS FUNDS

One thousand seven hundred fifty dollars (\$1,750) to the East Hamlet Community Concerned Citizens, Inc., to provide funds for community organizations.

H1700 EAST ROCKINGHAM PARK FUNDS

Two thousand one hundred dollars (\$2,100) to the City of Rockingham to provide funds to help construct a one-quarter mile walking trail for community recreation at the East Rockingham Park.

H1704 WINSTON LAKE YOUTH OUTREACH FUNDS

Ten thousand dollars (\$10,000) to the Young Men's Christian Association of Winston-Salem and Forsyth County to assist in the operation of the Winston Lake Family YMCA Youth Outreach Program.

H1705 DELTA ARTS CENTER FUNDS

Ten thousand dollars (\$10,000) to Winston-Salem Delta Fine Arts, Incorporated, to assist the Center with its programs of cultural enrichment, which include art exhibits and classes in ceramics, drama, painting, piano, floral design and calligraphy.

H1706 FOREST HILLS HIGH SCHOOL FUNDS

Thirty-five thousand dollars (\$35,000) to the Union County Board of Education for improved lighting at the Forest Hills High School Athletic Field.

H1707 VANCE SENIOR CENTER FUNDS

Ten thousand dollars (\$10,000) to Vance County for the Senior Center, to complete paving of the center parking lot and to complete renovation of the Center's facility.

H1710 INTERACT FUNDS

Eight thousand dollars (\$8,000) to the Family Violence Prevention Center, Inc., to enable Interact to provide crisis intervention and advocacy services to address domestic violence, sexual assault, and child abuse in Wake County.

H1711 RADIO READING SERVICE FUNDS

Five thousand dollars (\$5,000) to Radio Reading Service, Inc., a nonprofit organization that provides news for blind, elderly, and print-handicapped listeners, for the development and expansion of services.

H1712 WAKE COUNCIL ON AGING FUNDS

Three thousand dollars (\$3,000) to Wake County Council on Aging, Inc., a nonprofit organization that provides services and programs for older adults, for the development of elderly respite care services.

H1713 Garner Senior Citizens Funds

Four thousand dollars (\$4,000) to the Town of Garner for the development of a facility for senior citizens.

H1714 CARY SENIOR CITIZENS FUNDS

Three thousand dollars (\$3,000) to the Town of Cary to provide services to senior citizens.

H1715 MURFREESBORO/RESTORATION FUNDS

Two thousand five hundred dollars (\$2,500) to The Murfreesboro Historical Association, Inc., for the restoration projects of the Association.

H1717 RICHMOND ARTS COUNCIL FUNDS

One thousand four hundred dollars (\$1,400) to the Richmond County for the Richmond County Arts Council, to support arts projects in Richmond County.

H1719 ROBERDEL CHILDREN'S CENTER FUNDS

Three thousand five hundred dollars (\$3,500) to the Richmond County Board of Education to help fund the adaptive physical education program and buy a new piano at the Roberdel Children's Center in Rockingham, which serves children with special needs.

H1721 CENTER FOR INDEPENDENT LIVING FUNDS

Five thousand dollars (\$5,000) to the Center for Independent Living, Inc., of Lee County, to construct a home for mentally retarded adults.

H1722 BROADWAY PARK DEVELOPMENT FUNDS

Five thousand dollars (\$5,000) to the Town of Broadway for capital improvements to a city park.

H1723 TEMPLE THEATRE FUNDS

Five thousand dollars (\$5,000) to the Temple Theatre Company, Inc., for capital improvements.

H1724 t.l.c. HOME FUNDS

Five thousand dollars (\$5,000) to the t.l.c. Home, Inc., in Lee County, to construct a home for mentally retarded children.

H1725 LEMON SPRINGS IMPROVEMENT FUNDS

Five thousand dollars (\$5,000) to the Lemon Springs Improvement Corporation in Lee County for capital improvements to a city park.

H1726 LEE SCHOOL LIBRARY FUNDS

Ten thousand dollars (\$10,000) to the Lee County Board of Education to update a film and video library.

H1729 GETHSEMANE ENRICHMENT FUNDS

Five thousand dollars (\$5,000) to The Gethsemane Enrichment Program, Inc., for hot meals for senior citizens, day care, after-school care, and year-round tutorial programs for youth.

H1732 CLIMAX FIRE DEPARTMENT FUNDS

One thousand dollars (\$1,000) to the Climax Volunteer Fire Department, Inc., Guilford County, to provide operating expenses and equipment.

H1736 JOHNSTON CULTURAL ARTS PROGRAM FUNDS

Fifteen thousand dollars (\$15,000) to the Johnston County Board of Education for use in the elementary cultural arts program.

H1737 WINSTON-SALEM URBAN LEAGUE FUNDS

Ten thousand dollars (\$10,000) to the Winston-Salem Urban League to provide funds to develop and operate its Building Experience in Skilled Trades (B.E.S.T.) Program, which is having remarkable success in preparing welfare dependent women and minority males having at least an 11th grade education for entry level employment in occupations where openings exist, thus enabling them to become contributing citizens.

H1740 EAST WAKE OPPORTUNITIES FUNDS

Seven thousand four hundred dollars (\$7,400) to Wake County Opportunities, Inc., to continue their programs serving the older citizens of eastern Wake County.

H1742 ELDERHAUS DAY CARE FUNDS

Twelve thousand dollars (\$12,000) to Elderhaus, Incorporated, of New Hanover County for a building in which to provide adult day care.

H1743 EASTERN REGIONAL JETPORT FUNDS

Four thousand dollars (\$4,000) to the Lenoir Chamber of Commerce, Incorporated, to provide funds to promote and develop the use of the Eastern Regional Jetport, located in Lenoir County.

H1744 EDENTON HISTORICAL SURVEY FUNDS

Fifteen thousand dollars (\$15,000) to the Department of Cultural Resources, Division of Archives and History, to conduct an inventory of architecturally and historically significant structures and sites in Edenton.

H1748 PERSON HOSPITAL FUNDS

Sixteen thousand dollars (\$16,000) to the Person County Memorial Hospital, Incorporated, for capital improvements to the Hospital.

H1749 ROANOKE RAPIDS LIBRARY FUNDS

Six thousand dollars (\$6,000) to the Roanoke Rapids Public Library for capital improvements.

H1750 CASWELL EMERGENCY MEDICAL SERVICE FUNDS

Six thousand dollars (\$6,000) to Caswell County for capital improvements for the Caswell County Emergency Medical Service.

H1751 CASWELL RECREATION FUNDS

Five thousand dollars (\$5,000) to Caswell County for capital improvements and operating expenses at the Caswell County Recreation Areas.

H1755 NASEDGECOMBE HOME FUNDS

Ten thousand dollars (\$10,000) to Christian Fellowship Home of Nash-Edgecombe Counties, Incorporated, located at 262 Hill Street in Rocky Mount, to construct new homes for persons recovering from alcohol dependency or to renovate existing homes for those persons,

provided the corporation raises the same amount of non-State funds to match this appropriation on a dollar-for-dollar basis.

H1756 BEAUFORT HISTORICAL RESTORATION FUNDS

Forty thousand dollars (\$40,000) to the Beaufort Historical Association, Inc., for restoration, repair, and maintenance of the Association's Restoration Complex.

H1760 CHARLOTTE MECKLENBURG YOUTH FUNDS

Thirty thousand dollars (\$30,000) to the Charlotte Mecklenburg Youth Council for operating expenses incurred in running the Council's programs for senior citizens, school dropouts, day care, food distribution, and energy assistance.

H1765 BLADEN 4-H FUNDS

Seven hundred dollars (\$700.00) to Bladen County for capital expenses of the 4-H program.

H1766 EAST ARCADIA GYM FUNDS

Seven hundred dollars (\$700.00) to the Town of East Arcadia in Bladen County to enable the town to restore the town gymnasium, which serves as an important recreational and social center for the Town of East Arcadia.

H1767 HARMONY HALL RESTORATION FUNDS

Seven hundred dollars (\$700.00) to Bladen County to restore Harmony Hall in Bladen County.

H1768 SAMPSON FIRE DEPT. FUNDS

Eleven thousand two hundred dollars (\$11,200) to Sampson Fireman's Association, Inc., for the fire departments in Sampson County. These funds shall be allocated to the fire departments as follows:

(1) Autryville Area Fire Department, Inc.	\$700.00
(2) Clement Fire Department, Inc.	700.00
(3) Clinton Volunteer Fire Department, Inc.	700.00
(4) Garland Volunteer Fire Department, Inc.	700.00
(5) Halls Fire Department, Inc.	700.00
(6) Herring Fire Department, Inc.	700.00
(7) Newton Grove Volunteer Fire Department, Inc.	700.00
(8) Piney Grove Volunteer Fire Department of Sampson County, Inc.	700.00
(9) Plain View Volunteer Fire Department, Inc.	700.00
(10) Roseboro Area Fire Department, Inc.	700.00
(11) Salemburg Volunteer Fire Department, Inc.	700.00
(12) Spivey's Corner Volunteer Fire Department, Inc.	700.00
(13) Turkey Volunteer Fire Department, Inc.	700.00

(14) Vann's Crossroads Volunteer Fire Department, Inc. 700.00

(15) Harrells Fire Department, Inc. 1,400.00

Of the funds allocated to Harrells Fire Department, Inc., the sum of seven hundred dollars (\$700.00) shall be used for the Ivanhoe satellite station. Funds allocated to these fire departments shall be used for operating expenses and equipment.

H1769 IVANHOE COMMUNITY BUILDING FUNDS

Seven hundred dollars (\$700.00) to Sampson County for the Ivanhoe Community Building Project.

H1770 AUTRYVILLE OUTDOOR THEATRE FUNDS

Seven hundred dollars (\$700.00) to the Town of Autryville for an outdoor theatre project.

H1771 SAMPSON COMMUNITY THEATRE FUNDS

Seven hundred dollars (\$700.00) to the Sampson Community Theatre, Inc., to assist in operating expenses of the theatre in presenting programs of all kinds to the people of Sampson County.

H1772 PENDER FIRE DEPT. FUNDS

Four thousand nine hundred dollars (\$4,900) to the Pender County Fireman's Association to make equal grants of seven hundred dollars (\$700.00) each to the Atkinson City Fire Department, the Burgaw Fire Department, the Long Creek-Grady Fire Department, the Maple Hill Fire Department, the Penderlea Fire Department, the Rocky Point Fire Department, and the Shiloh Fire Department. Such grants are for operating and capital expenses of the fire departments.

H1773 ATKINSON PARK FUNDS

Seven hundred dollars (\$700.00) to the Town of Atkinson for playground equipment and other improvements for the Town's parks.

H1774 BURGAW DEPOT FUNDS

Seven hundred dollars (\$700.00) to the Town of Burgaw for the Burgaw depot restoration project.

H1775 HENDERSON-WATER PIPING SYSTEM FUNDS

Eight thousand dollars (\$8,000) to the City of Henderson to revise the water piping system at the booster pump station of the Kerr Lake regional water system.

H1776 NEW RIVER MENTAL HEALTH FUNDS

Eight thousand dollars (\$8,000) to the New River Area Mental Health, Mental Retardation, and Substance Abuse Authority for capital improvements to Serenity Farm.

H1777 CALDWELL SHELTER HOME FUNDS

Five thousand dollars (\$5,000) to Shelter Home of Caldwell County, Incorporated, for operating expenses.

H1778 CALDWELL HOUSE INC. FUNDS

Five thousand dollars (\$5,000) to Caldwell House, Inc., for operating expenses.

H1781 WESLEY HALL FUNDS

Thirty-five thousand dollars (\$35,000) to Wesley Hall of Alamance, Inc., to operate a residential treatment center for persons afflicted with chronic mental illness or suffering from chronic alcohol or drug dependency.

H1784 WATERMELON/FARMER FESTIVAL FUNDS

One thousand dollars (\$1,000) to The Greater Fair Bluff Chamber of Commerce to sponsor the annual Watermelon Festival and the annual Farmers' Festival in Fair Bluff.

H1785 YAM FESTIVAL FUNDS

One thousand five hundred dollars (\$1,500) to the North Carolina Yam Festival at Tabor City, North Carolina, Inc., to sponsor the annual Yam Festival at Tabor City.

H1786 GOOD SHEPHERD HOME FUNDS

Seven thousand dollars (\$7,000) to The Good Shepherd Home, Inc., to help persons suffering from alcohol and drug dependency who are being treated at the Good Shepherd Home in Lake Waccamaw.

H1787 TABOR CITY REVITALIZATION FUNDS

Five thousand dollars (\$5,000) to the Tabor City Committee of 100, Inc., to revitalize downtown Tabor City.

H1788 COLUMBUS ROAD SIGN FUNDS

Five thousand dollars (\$5,000) to Columbus County to name and mark with identifying signs the primary and secondary roads throughout Columbus County.

H1789 STRAWBERRY FESTIVAL FUNDS

One thousand dollars (\$1,000) to the Chadbourn Strawberry Festival Association, Inc., to sponsor the annual Strawberry Festival in Chadbourn.

H1791 BLACK FAMILY TASK FORCE FUNDS

Five thousand dollars (\$5,000) to Experiment in Self-Reliance, Inc., of Winston-Salem, to be used by the Black Family Task Force in educating all the citizens of Winston-Salem on the needs of black families and in providing programs that address some of these needs.

H1792 ALAMANCE FRIENDS OF YOUTH FUNDS

Ten thousand dollars (\$10,000) to Alamance County for operating funds for the Alamance Friends of Youth program, to reduce the number of juvenile repeat offenders in the court system.

H1793 FRENCH BROAD WATERFRONT FUNDS

Thirteen thousand dollars (\$13,000) to the City of Asheville to provide funds to plan waterfront beautification and limited development for the city's portion of the French Broad River. This development will include parks and linear greenways and will benefit all the people of Asheville and of North Carolina who visit the famous French Broad River.

H1796 WARREN/MARTIN/HALIFAX PROJECT FUNDS

- (1) Twenty-seven thousand five hundred dollars (\$27,500) to the John A. Hyman Memorial Youth Development Foundation, Inc., to assist in helping young persons develop their full potential and talents through the general purposes of the Foundation outlined in its charter and bylaws.
- (2) One thousand five hundred dollars (\$1,500) to the Town of Enfield for recreational purposes.
- (3) One thousand dollars (\$1,000) to the 4-H and Youth Day Camp, Inc., for capital improvements to the camp, which provides summer activities for young people.
- (4) One thousand five hundred dollars (\$1,500) to Warren County to make capital improvements to the Warren County Nathaniel Macon 4-H and Youth Camp, which sponsors summer activities for young people.
- (5) Two thousand five hundred dollars (\$2,500) to Sound and Print United, Incorporated, as a grant-in-aid for general operating expenses of WVSP Public Radio Station in Warrenton.
- (6) One thousand dollars (\$1,000) to the Martin Community Players, Inc., for expenses in promoting the arts and sponsoring theatrical projects for the enjoyment of the community.

H1798 COVE CREEK SENIOR CENTER FUNDS

Five thousand dollars (\$5,000) to Watauga County for the Cove Creek Senior Center for capital improvements.

H1799 DURHAM HOUSING AUTHORITY FUNDS

Ten thousand dollars (\$10,000) to the Housing Authority of the City of Durham for its Youth Enrichment Experiences Program.

H1800 FUEL ASSISTANCE FUNDS

Five thousand dollars (\$5,000) to Operation Breakthrough, Inc., for the Emergency Fuel Assistance Program.

H1803 PITT RESCUE BUILDING FUNDS

Ten thousand dollars (\$10,000) to Pitt County for a rescue building.

H1805 TRIANGLE FIREMEN'S FUNDS

Thirty-five thousand dollars (\$35,000) to Durham County to be divided equally among the following six fire departments for operating expenses and equipment, provided these funds are matched on a dollar-for-dollar basis by non-State funds:

- (1) Parkwood West Volunteer Fire Department;
- (2) Bahama Volunteer Fire Department;
- (3) Bethesda Volunteer Fire Department;
- (4) Labanon Volunteer Fire Department;
- (5) Parkwood Volunteer Fire Department; and

- (6) Redwood Volunteer Fire Department.

H1806 DURHAM AREA PROJECT FUNDS

- (1) Ten thousand five hundred dollars (\$10,500) to the Housing Authority of the City of Durham to support its Youth Enrichment Experiences Program of the Authority.
- (2) Seven thousand dollars (\$7,000) to the American Dance Festival, Inc., for operating expenses.
- (3) Ten thousand five hundred dollars (\$10,500) to the Triangle J Council of Governments to support the Council's Water Resources Program.
- (4) Three thousand five hundred dollars (\$3,500) to the Redwood Volunteer Fire Department, Inc., located in Durham County, for operating expenses and equipment.
- (5) Three thousand five hundred dollars (\$3,500) to Operation Breakthrough, Inc., located in Durham County, for operating expenses.

H1807 COLUMBUS LIBRARY FUNDS

Five thousand dollars (\$5,000) to the Columbus County Public Library to be divided equally among the main library in Whiteville, the East Columbus County Library Branch in Riegelwood, the Fair Bluff Community Library Branch, and the Tabor City Public Library Branch, and to be used to support the public libraries in Columbus County.

H1808 BOGUE AREA BETTERMENT FUNDS

Five hundred dollars (\$500.00) to the Bogue Area Betterment Council to improve community recreational facilities in the Bogue Area.

H1809 COLUMBUS SENIOR CENTER FUNDS

Four thousand dollars (\$4,000) to Columbus County to be used by Columbus County Senior Citizens Center, Inc., to improve the parking lot at the Columbus County Senior Citizens Center at Whiteville.

H1810 COLUMBUS HOSPICE FUNDS

Two thousand dollars (\$2,000) to Columbus County Hospice, Incorporated, to assist the terminally ill in Columbus County.

H1812 PENDER BOOSTER CLUB FUNDS

Seven hundred dollars (\$700.00) to the Pender County Board of Education for the Pender County High School Athletic Boosters Club to use to light the athletic field at Pender High School.

H1814 PRINCETON VOLUNTEER FIRE DEPARTMENT FUNDS

Twenty thousand dollars (\$20,000) to the Princeton Volunteer Fire Department, Incorporated, in Johnston County for capital improvements.

H1817 PINEY GROVE SCHOOL FUNDS

Ten thousand dollars (\$10,000) to the Kernersville Historical Preservation Society, Inc., to provide funds to relocate, restore, and

refurbish Piney Grove Elementary School, one of the oldest school buildings in Forsyth County.

H1818 SOUTH WAKE FUNDS

- (1) Five thousand dollars (\$5,000) to the Town of Apex for recreation for senior citizens.
- (2) Five thousand dollars (\$5,000) to the Town of Cary for restoration of the Page-Walker Hotel.
- (3) Five thousand dollars (\$5,000) to the Town of Fuquay-Varina for an outpost service center.
- (4) Two thousand five hundred dollars (\$2,500) to the Garner Volunteer Fire Department, Inc., for operating and capital expenses.
- (5) Two thousand five hundred dollars (\$2,500) to the Garner-St. Mary's Rescue Squad, Inc., for operating and capital expenses.
- (6) Two thousand dollars (\$2,000) to the Town of Holly Springs for operating and capital expenses of the Holly Springs Rural Fire Department.
- (7) Three thousand dollars (\$3,000) to the Town of Holly Springs for parks and recreation.
- (8) Five thousand dollars (\$5,000) to the Town of Knightdale for parks and recreation.
- (9) Two thousand dollars (\$2,000) to Learning Together, Inc., to support its public service programs.
- (10) Three thousand dollars (\$3,000) to the Tammy Lynn Memorial Foundation, Inc., to care for the mentally retarded.

H1819 MARINE RESOURCES CENTER FUNDS

Seven thousand dollars (\$7,000) to the Department of Administration for a new aquarium at the North Carolina Marine Resources Center at Fort Fisher.

H1820 THOMS HOSPITAL FUNDS

Twelve thousand dollars (\$12,000) to the Thoms Rehabilitation Hospital Health Services Corporation in Asheville for operating expenses and equipment.

H1821 CATAWBA MENTAL HEALTH FUNDS

Twenty thousand dollars (\$20,000) to Catawba County, to be used by the Catawba County Mental Health, Mental Retardation, and Substance Abuse Authority to expand its outpatient mental health services and to provide school-based alcohol and drug abuse services.

H1823 JOHNSTON COUNCIL ON AGING FUNDS

Five thousand dollars (\$5,000) to the Johnston County Council on Aging, Inc., to transport senior citizens.

H1824 ONSLOW/CARTERET 4-H FUNDS

- (1) Five thousand dollars (\$5,000) to the 4-H Club Foundation of North Carolina, Inc., for the Onslow County 4-H Club, to assist in life skill development projects and to secure resources for further development in volunteer leadership.
- (2) Five thousand dollars (\$5,000) to the 4-H Club Foundation of North Carolina, Inc., for the Carteret County 4-H Club, to assist in Life skill development projects and to secure resources for further development in volunteer leadership.

H1825 WAGRAM DOWNTOWN REVITALIZATION FUNDS

Five thousand dollars (\$5,000) to the Town of Wagram for downtown beautification.

H1827 ST. PAULS DOWNTOWN REVITALIZATION FUNDS

Five thousand dollars (\$5,000) to the Town of St. Pauls for downtown revitalization.

H1828 HOKE YOUTH RECREATION FUNDS

Five thousand dollars (\$5,000) to Hoke County for a youth recreational program.

H1829 SCOTLAND COUNTY ARTS COUNCIL FUNDS

Five thousand dollars (\$5,000) to Scotland County for the Scotland County Arts Council, for operating expenses incurred in promoting the arts in Scotland County.

H1830 MAXTON DOWNTOWN REVITALIZATION FUNDS

Seven thousand five hundred dollars (\$7,500) to the Town of Maxton for downtown revitalization, provided that a match for this appropriation be made by the town on a dollar-for-dollar basis.

H1833 MECKLENBURG SHELTER/ST. MARKS CENTER FUNDS

- (1) Seventeen thousand five hundred dollars (\$17,500) to United Family Services, Inc., for the operation of a domestic violence shelter known as "The Shelter" in Mecklenburg County.
- (2) Seventeen thousand five hundred dollars (\$17,500) to the St. Marks Center, Inc., of Mecklenburg County for its community service programs.

H1835 CHARLOTTE AREA FUND, INC., FUNDS

Five thousand dollars (\$5,000) to the Charlotte Area Fund, Inc., for non-grant related expenditures related to its Learning Center Program.

H1836 ASSOCIATION FOR SICKLE CELL DISEASE FUNDS

Ten thousand dollars (\$10,000) to the Association for Sickle Cell Disease for Charlotte-Metrolina, Inc., to assist the Association in its operational community program.

H1838 CHARLOTTE MECKLENBURG YOUTH COUNCIL FUNDS

Ten thousand dollars (\$10,000) to the Charlotte Mecklenburg Youth Council for operational expenses to assist in expanding transportation services to rural Mecklenburg County low-income residents who are

eligible for food stamps, food assistance, or other social or community services.

H1840 MCCROREY BRANCH YMCA FUNDS

Five thousand dollars (\$5,000) to The Young Men's Christian Association of Charlotte and Mecklenburg for the McCrorey Branch YMCA to continue and expand its youth program.

H1841 KATIE B. HINES SENIOR CENTER FUNDS

Ten thousand dollars (\$10,000) to the Katie B. Hines Senior Center, Inc., located in New Hanover County, for building fund improvements, furnishings, and operating expenses as a senior citizen nutrition center.

H1842 WILMINGTON SHELTER FUNDS

Five thousand dollars (\$5,000) to the Domestic Violence Shelter and Services of the Cape Fear Area, Inc., for the operation of a domestic violence shelter in Wilmington.

H1843 CAPE FEAR REGIONAL THEATRE FUNDS

Eighty-seven thousand eight hundred dollars (\$87,800) to The Cape Fear Regional Theatre at Fayetteville, Inc., for capital improvements to the Theatre.

H1849 VARIOUS LOCAL PROJECTS FUNDS

- (1) Seven thousand five hundred dollars (\$7,500) to the Town of Windsor for the continued restoration of the Hotel Freeman (Pearl), located in the Town. The activities associated with this appropriation shall be performed in accordance with the standards and guidelines for restoration projects established by the Division of Archives and History and shall be conducted under the professional supervision of that agency.
- (2) Ten thousand dollars (\$10,000) to the Ahoskie Chamber of Commerce, Inc., for continued renovations of a building used as a meeting place for community organizations.
- (3) Five thousand dollars (\$5,000) to the Aulander Volunteer Fire Department, Incorporated, for operating expenses and equipment.
- (4) Five thousand dollars (\$5,000) to the Colerain Fire Department for operating expenses and equipment.
- (5) Five thousand dollars (\$5,000) to the Albemarle Regional Library to purchase books and shelves for the Ahoskie Library.
- (6) Two thousand five hundred dollars (\$2,500) to Hertford County for expenses incurred in transporting the ship Elizabeth II from Manteo to Hertford County.

H1850 PEMBROKE DEPOT RESTORATION FUNDS

Ten thousand dollars (\$10,000) to the Town of Pembroke to renovate and move the Atlantic Coastline Depot.

H1851 LUMBER BRIDGE REVITALIZATION FUNDS

One thousand dollars (\$1,000) to the Town of Lumber Bridge for downtown revitalization.

H1853 GRAHAM FIRE EQUIPMENT FUNDS

Three thousand six hundred dollars (\$3,600) to Graham County to purchase firefighting equipment for the county, provided the county raises the same amount of non-State funds to match this appropriation on a dollar-for-dollar basis.

H1854 SCOTLAND RECREATION DEPT. FUNDS

Three thousand five hundred dollars (\$3,500) to Scotland County to be used by the Scotland County Recreation Department for operating expenses and for a little league baseball program.

H1855 BLADEN COUNTY FIRE DEPTS. FUNDS

Nine thousand one hundred dollars (\$9,100) to the Bladen County Fire Fighters Association, Inc., to be divided equally among the following fire departments in Bladen County and used for operating expenses and equipment.

- (1) Ammon Volunteer Fire Department,
- (2) Bladenboro Volunteer Fire Department,
- (3) Carver's Creek Volunteer Fire Department,
- (4) Clarkton Volunteer Fire Department,
- (5) Dublin Volunteer Fire Department,
- (6) East Arcadia Volunteer Fire Department,
- (7) Elizabethtown Volunteer Fire Department,
- (8) Hickory Grove Volunteer Fire Department,
- (9) Kelly Volunteer Fire Department,
- (10) Lisbon Volunteer Fire Department,
- (11) Tar Heel Volunteer Fire Department,
- (12) White Lake Volunteer Fire Department,
- (13) White Oak Volunteer Fire Department.

H1856 BLADEN IMPROVEMENT ASSOCIATION FUNDS

Seven hundred dollars (\$700.00) to the Bladen County Improvement Association, Inc., to support its community improvement programs.

H1857 JOHNSTON CONSERVATION DISTRICT FUNDS

Ten thousand dollars (\$10,000) to the Johnston County Soil and Water Conservation District for the District's Little Creek Project.

H1858 DUPLIN EDUCATION FOUNDATION FUNDS

Ten thousand five hundred dollars (\$10,500) to the Duplin County Education Foundation. Of this amount, the sum of three thousand five hundred dollars (\$3,500) shall be placed in the Foundation's general

endowment fund to support the Foundation, and the sum of seven thousand dollars (\$7,000) shall be distributed by the Foundation to the Boosters Clubs listed below. Each of these Boosters Clubs shall receive the sum of one thousand four hundred dollars (\$1,400) which shall be used to support the athletic programs in their schools:

- (1) East Duplin High School Boosters Club;
- (2) James Kenan High School Boosters Club;
- (3) North Duplin High School Boosters Club;
- (4) Wallace-Rose Hill High School Boosters Club; and
- (5) Jones High School Boosters Club.

H1861 DUPLIN EXHIBITION CENTER FUNDS

Fourteen thousand dollars (\$14,000) to the Duplin County Agribusiness Council, Inc., to construct an exhibition center in Duplin County.

H1863 ROANOKE RAPIDS HIGH SCHOOL RENOVATION FUNDS

Ten thousand dollars (\$10,000) to the Roanoke Rapids City Schools for renovation of the High School Auditorium.

H1864 LINCOLN HEALTH CENTER FUNDS

Ten thousand dollars (\$10,000) to the Lincoln Community Health Center, Incorporated, in Durham County, to provide access to primary health care for low income people.

H1865 HAYTI DEVELOPMENT FUNDS

Five thousand dollars (\$5,000) to the Hayti Development Corporation of Durham, to provide funds for the Corporation's Educational Development and Growth Enrichment Program, which will benefit the community of Hayti and the surrounding communities.

H1868 THEATRE IN THE PARK FUNDS

Five thousand dollars (\$5,000) to Theatre In The Park of Wake County for operating expenses incurred in bringing the dramatic arts to the public.

H1870 NORTH CAROLINA THEATRE FUNDS

Fifteen thousand dollars (\$15,000) to The North Carolina Theatre for operating expenses.

H1871 SADD FUNDS

Twenty-two thousand dollars (\$22,000) to the Department of Administration to maintain services in the Students Against Driving Drunk Program.

H1874 ANSON/MONTGOMERY FUNDS

- (1) Seven thousand five hundred dollars (\$7,500) to Anson County for the Anson County Firemen's Association to distribute equally among the volunteer fire departments in Anson County for operating expenses and equipment.
- (2) Five thousand dollars (\$5,000) to Anson County to be distributed equally among the three volunteer rescue squads in Anson County for operating expenses and equipment.

- (3) Five thousand dollars (\$5,000) to Anson County Arts Council, Inc., for operating and capital expenses.
- (4) Five thousand dollars (\$5,000) to Montgomery County for the purchase, construction, or renovation of a building to be used for voting and community activities in the Rocky Springs precinct in Montgomery County.
- (5) Seven thousand five hundred dollars (\$7,500) to Montgomery County for the Montgomery County Fire Commission to be used for operating expenses and equipment.
- (6) Five thousand dollars (\$5,000) to the Pekin Volunteer Fire Department, Inc., of Montgomery County for operating expenses, capital, and/or equipment.

H1875 WAYNE HISTORICAL ASSOCIATION FUNDS

Twenty-five thousand dollars (\$25,000) to the Wayne County Historical Association to be divided as follows: twenty thousand dollars (\$20,000) to the Wayne County Historical Museum for capital improvements and five thousand dollars (\$5,000) to the Wayne County Revolving Fund for general restoration purposes.

H1876 WAYNE CRISIS INTERVENTION FUNDS

Five thousand dollars (\$5,000) to the United Church Ministries of Wayne County, North Carolina, Incorporated, to provide crisis intervention for the needy.

H1877 WAYNE PROJECTS FUNDS

- (1) Five thousand dollars (\$5,000) to Wayne County to restore the doughboy statue on Courthouse square. Wayne County shall distribute any funds remaining after restoring the doughboy statue to the North Carolina Vietnam Veterans Memorial Committee, Incorporated, for the Vietnam Veterans Memorial statue which will be placed on the State Capitol grounds.
- (2) Forty thousand dollars (\$40,000) to Wayne County for Southern Wayne Sanitary District to relocate water and sewer lines and facilities.

H1878 ROBESON YOUTH DEVELOPMENT FUNDS

Three thousand five hundred dollars (\$3,500) to Youth Self-Improvement, Incorporated, for its tutorial program.

H1879 SCOTLAND COUNTY LIBRARY FUNDS

Three thousand five hundred dollars (\$3,500) to the Scotland County Memorial Library, Inc., for a bookmobile.

H1880 ROBESON EMERGENCY SERVICE FUNDS

Seven thousand dollars (\$7,000) to the City of Lumberton to purchase emergency equipment for the Lumberton Rescue Squad.

H1881 OLD ROSENWALD BUILDING RENOVATION

Three thousand five hundred dollars (\$3,500) to the Robeson County Board of Education for renovation of the Old Rosenwald Building at the Old Southside School for public meeting facilities.

H1882 HOKE READING-LITERACY FUNDS

Seven thousand dollars (\$7,000) to the Hoke County Reading-Literacy Council, Inc., to assist in its literacy programs.

H1883 CAROLINA CIVIC CENTER FUNDS

Five thousand two hundred fifty dollars (\$5,250) to the Carolina Civic Center Foundation, Inc., for operating expenses of its community programs.

H1884 SCOTLAND HISTORICAL ASSOCIATION FUNDS

One thousand dollars (\$1,000) to the Scotland County Historical Association, Inc., to restore the Log House built around 1850 and located on the historic John Blue Farm Site.

H1885 ROBESON RECREATION FUNDS

Two thousand dollars (\$2,000) to the County of Robeson for the Robeson County Recreation Department, for operating expenses.

H1887 LIVING HISTORY FARM FUNDS

Fifteen thousand dollars (\$15,000) to the Division of Archives and History, Department of Cultural Resources, for the purpose of completing the master plan and cost estimate for a proposed living history farm in Surry County.

H1888 UNC/WCQS FUNDS

Eight thousand seven hundred fifty dollars (\$8,750) to the Board of Governors of The University of North Carolina for the University of North Carolina at Asheville, to develop and expand WCQFM, in accordance with plans developed by Western Carolina Public Radio, Incorporated. The funds may be used for capital expenses or for operating expenses, to develop and expand WCQFM Public Radio to serve the counties of Buncombe, Haywood, Henderson, Jackson, Macon, Madison, and Transylvania, and to study the feasibility of extending the service to the Cherokee Indian Reservation and the counties of Cherokee, Clay, Graham, and Swain.

H1889 SAND CASTLE CHILDREN'S HOME FUNDS

Six thousand dollars (\$6,000) to the Sand Castle Children's Home, Inc., for general operating expenses incurred in caring for the children at Sand Castle Children's Home.

H1891 PENDER RESCUE AND FIRE FUNDS

Thirteen thousand dollars (\$13,000) to Pender County to be divided between the following rescue squads and fire departments as specified in the list and used for operating expenses and equipment:

(1) Pender East Volunteer Rescue Squad, Inc.	\$1,000
(2) Surf City Volunteer Rescue Squad, Inc.	1,000
(3) Topsail Beach Volunteer Rescue Squad, Inc.	1,000
(4) Hampstead Volunteer Fire Department, Inc.	2,000
(5) Sloop Point Volunteer Fire Department, Inc.	2,000

- | | |
|-----------------------------------------------|--------|
| (6) Scotts Hill Volunteer Fire Department | 2,000 |
| (7) Topsail Beach Fire Department | 2,000 |
| (8) Surf City Volunteer Fire Department, Inc. | 2,000. |

H1892 COUNCIL ON STATUS OF WOMEN FUNDS

Five thousand dollars (\$5,000) to the Winston-Salem/Forsyth County Council on the Status of Women, Inc., to fund the Council's Job Strategy Center.

H1893 WINSTON-SALEM URBAN LEAGUE FUNDS

Five thousand dollars (\$5,000) to the Winston-Salem Urban League for the Seniors in Community Services Program and the Older Workers Program.

H1897 WINSTON-SALEM/FORSYTH YWCA FUNDS

Five thousand dollars (\$5,000) to the Young Women's Christian Association of Winston-Salem and Forsyth County for continuing services to senior citizens on fixed incomes, handicapped teens, low income families, children and the disabled.

H1898 EXPERIMENT IN SELF-RELIANCE FUNDS

Fifteen thousand dollars (\$15,000) to the Experiment in Self-Reliance, Inc., of Winston-Salem for purchase of a van for the senior citizens program, for tutorial classes to assist students recommended by the Forsyth County Board of Education in improving their reading, writing, and mathematics skills, and to support the Gladiator Boxing Club.

H1899 MINORITY BUSINESS DEVELOPMENT FUNDS

Sixty-five thousand dollars (\$65,000) to the Directors of the Southeastern Business and Professional League as a grant-in-aid for the operating expenses of a minority business development center.

H1901 HOSPICE OF WAKE FUNDS

Two thousand dollars (\$2,000) to Hospice of Wake County, Inc., for professional, medical, and support services to the terminally ill and their families.

H1902 WAKE FIGS FUNDS

Five thousand dollars (\$5,000) to the FIGS of Wake County, Inc., for a grant-in-aid for general operating expenses of its emergency assistance program.

H1903 THEATRE IN THE PARK FUNDS

Ten thousand dollars (\$10,000) to Theatre In The Park of Wake County to be used to make Theatre In The Park productions available to other areas of the State.

H1906 ASHEVILLE CENTER PRESERVATION FUNDS

Twenty thousand dollars (\$20,000) to The YMI Cultural Center, Inc., to preserve the Center, which is listed on the National Register of Historic Places.

H1908 TRI-COUNTY WORKSHOP FUNDS

Six thousand dollars (\$6,000) to the Tri-County Industries, Inc., of Rocky Mount, for equipment for the sheltered workshop.

H1909 DALLAS BUILDINGS FUNDS

Three thousand five hundred dollars (\$3,500) to the Town of Dallas in Gaston County for repairs to and remodeling of the Rescue Squad and Civic Center Buildings.

H1910 AFRO-AMERICAN CULTURAL CENTER FUNDS

Ten thousand dollars (\$10,000) to the Charlotte Mecklenburg Afro-American Cultural and Service Center, Inc., to assure the Center's ongoing development as a center for all people which promotes, presents, and preserves history and culture.

H1911 WESTSIDE COMMUNITY FUNDS

Ten thousand dollars (\$10,000) to Mecklenburg County for operating expenses of the seven Westside Community Organizations that provide community service for the residents of the following communities in the west side of Mecklenburg County: Oakdale, Westside, Coulwood, Paw Creek, Forest Pawtucket, Moores Park, and Steele Creek.

H1913 HAVEN HOUSE FUNDS

Eight thousand dollars (\$8,000) to Haven House, Inc., to provide services in Wake County for emotionally disturbed youths.

H1914 BLACK CHILD DEVELOPMENT FUNDS

Twenty-five thousand dollars (\$25,000) to the Black Child Development Institute of Greensboro, Incorporated, for the tutorial program and other public service programs offered by the Black Child Development Institute of Greensboro.

H1915 RONALD MCNAIR SCHOLARSHIPS FUNDS

Twelve thousand five hundred dollars (\$12,500) to the Board of Governors of The University of North Carolina to establish 10 new scholarships known as the Ronald McNair Memorial Scholarships at North Carolina Agricultural and Technical State University. The scholarships shall be offered to disadvantaged students entering the fields of physics or engineering. These scholarship funds shall be administered by North Carolina Agricultural and Technical State University.

H1916 NEW HANOVER HISTORICAL RESTORATION/HANDICAPPED FUNDS

- (1) Thirty-four thousand dollars (\$34,000) to New Hanover County to be used for historic restoration projects designated by the county commissioners, provided that a like amount of non-State funds is raised by New Hanover County to match the appropriation on a dollar-for-dollar basis and provided further that any private project designated to receive a portion of these funds for historic restoration matches with private funds on a dollar-for-dollar basis the amount of State funds received by that private project.
- (2) Two thousand dollars (\$2,000) to the Association for Individual Development for the Handicapped, Inc., to be used to support the Association's programs for handicapped children and adults.

H1918 HALIFAX EMS/N. C. SR. CITIZENS/N.C. SHERIFFS'/VGFW FUNDS

- (1) Ten thousand dollars (\$10,000) to the Halifax Emergency Medical Services Authority for capital improvements.
- (2) Forty thousand dollars (\$40,000) to the North Carolina Senior Citizens' Federation, Inc., for operating expenses to enable the Federation to carry on its vital work for printing information, referral, training, and transportation services for all senior citizens, especially for the elderly poor.
- (3) Twenty-two thousand dollars (\$22,000) to the North Carolina Sheriffs' Education and Training Standards Commission for a field representative.
- (4) Thirty-three thousand dollars (\$33,000) to the Vance/Granville/Warren/Franklin Mental Health, Mental Retardation, and Substance Abuse Authority for the Authority's family preservation project.

H1920 SCARBOROUGH NURSERY FUNDS

Two thousand dollars five hundred dollars (\$2,500) to The Scarborough Nursery School, Incorporated, in Durham, to provide care for children.

H1921 JOHN AVERY BOY'S CLUB FUNDS

Two thousand five hundred dollars (\$2,500) to John Avery Boys' Club, Inc., of Durham to purchase recreation and athletic equipment.

H1922 NORTHEAST CENTER FOR HUMAN DEVELOPMENT FUNDS

Two thousand five hundred dollars (\$2,500) to the Northeast Center for Human Development located in Bertie County to continue and promote the Center's on-going programs which serve the public.

H1923 HARRELLSVILLE CENTER REPAIR FUNDS

Four thousand five hundred dollars (\$4,500) to the Town of Harrellsville to repair and upgrade the Harrellsville Community Recreation Center.

H1924 NORTHAMPTON MUSEUM FUNDS

Five thousand dollars (\$5,000) to the Northampton County Museum, Inc., for implementation of historic preservation and interpretive educational programs.

H1925 BLUE JAY VOLUNTEER FIRE DEPT. FUNDS

Five thousand dollars (\$5,000) to the Blue Jay Volunteer Fire Company, Inc., in Windsor to purchase equipment for the Blue Jay Volunteer Fire Department.

H1926 BLUE JAY RECREATION FUNDS

Five thousand dollars (\$5,000) to Bertie County to provide funds for the Blue Jay Recreation Project for the development of a recreation project that will serve the Indian Woods, St. Francis, Beacon Light, and Spring Hill communities.

H1927 HERTFORD ARTS ACADEMY FUNDS

Seven thousand five hundred dollars (\$7,500) to The Murfreesboro Historical Association, Inc., for capital improvements to the Hertford Academy for the Arts.

H1928 GATES COUNTY HISTORICAL SOCIETY FUNDS

Three thousand dollars (\$3,000) to the Gates County Historical Society for professional services to draw up plans for the restoration of the interiors of the old Gates County Courthouse and Annex.

H1929 ELIZABETHTOWN COMMUNITY BUILDING LOT FUNDS

Seven hundred dollars (\$700.00) to the Town of Elizabethtown to pave the parking lot of the community building.

H1934 RALEIGH WOMEN'S CENTER FUNDS

Four thousand dollars (\$4,000) to The Women's Center of Raleigh to support the bereavement counseling services and the career development programs of the center.

H1935 PITT TOWN FUNDS

- (1) Six thousand five hundred dollars (\$6,500) to the Town of Ayden; four thousand seven hundred fifty dollars (\$4,750) of which shall be used for Recreation Department equipment, and one thousand seven hundred fifty dollars (\$1,750) of which shall be used for library books.
- (2) One thousand two hundred fifty dollars (\$1,250) to the Town of Farmville; seven hundred fifty dollars (\$750.00) of which shall be used for books and repairs at the library, and five hundred dollars (\$500.00) of which shall be used for equipment and supplies at the Child Development Center.
- (3) Two thousand seven hundred fifty dollars (\$2,750) to the City of Greenville; one thousand seven hundred fifty dollars (\$1,750) of which shall be used for the Greenville Recreation Program (North River) Adventures in Health Center, and one thousand dollars (\$1,000) of which shall be used for books and repairs at the Sheppard Memorial Library.
- (4) Six thousand dollars (\$6,000) to the Town of Grifton for town improvements and for the depot.
- (5) Three thousand dollars (\$3,000) to the Town of Winterville; one thousand five hundred dollars (\$1,500) of which is for the Winterville Community Center, seven hundred fifty dollars (\$750.00) of which is for use by the Winterville Historical and Arts Society, and seven hundred fifty dollars (\$750.00) of which is for use of the Winterville Recreation Department.

H1936 GREENE SCHOOL FUNDS

Four thousand dollars (\$4,000) to the Greene County Board of Education; two thousand dollars (\$2,000) of which is for band uniforms and equipment and two thousand dollars (\$2,000) of which is for baseball lights.

H1937 GREENE FIRE AND RESCUE FUNDS

Nine thousand dollars (\$9,000) to Greene County to be divided equally, for operating and capital expenses, between each of the volunteer fire and rescue squads in Greene County listed below:

- (1) Arba Rural Volunteer Fire Department
- (2) Bull Head Fire Department
- (3) Castoria Fire Department
- (4) Fort Run Fire Department
- (5) Hookerton Fire Department
- (6) Jason Volunteer Fire Department
- (7) Maury Fire Department
- (8) Shine Fire Department
- (9) Snow Hill Volunteer Fire Department
- (10) Walstonburg Fire Department
- (11) Arba Rescue Squad
- (12) Castoria Rescue Squad
- (13) Greene County Rescue Squad, Shine Unit
- (14) Hookerton Rescue Squad
- (15) Snow Hill Rescue Squad
- (16) Walstonburg Rescue Squad

H1938 AYDEN MUSEUM FUNDS

Five thousand dollars (\$5,000) to the Town of Ayden to renovate and restore a building for a museum, provided the Town raises the sum of five thousand dollars (\$5,000) in non-State funds to match this appropriation on a one-to-one basis.

H1939 EAST CAROLINA UNIVERSITY FUNDS

- (1) Four thousand dollars (\$4,000) to the Board of Governors of The University of North Carolina for East Carolina University, to be disbursed in the following amounts for the following purposes:
- (2) One thousand dollars (\$1,000) to the Remedial Education Activity Program, for equipment and supplies;
- (3) One thousand dollars (\$1,000) for the Friends of Music Scholarships; and
- (4) Two thousand dollars (\$2,000) to the Medical School Creative Living Center Day Care for Senior Adults, for operating expenses.

H1940 PITT HISTORICAL FUNDS

Two thousand five hundred dollars (\$2,500) to the Pitt County Historical Society, Inc., for operating expenses.

H1941 EASTERN PINES FIRE AND RESCUE FUNDS

Fifteen thousand dollars (\$15,000) to the Eastern Pines Volunteer Fire Department, Inc., and the Eastern Pines Rescue Squad, Inc., for capital improvement to their facility in Pitt County, provided the Fire Department and Rescue Squad jointly raise the sum of five thousand dollars (\$5,000) in non-State funds to match this appropriation on a two-to-one basis.

H1942 "STRIKE AT THE WIND" FUNDS

Five thousand two hundred fifty dollars (\$5,250) to the Robeson Historical Drama, Incorporated, for operating expenses for the outdoor drama "Strike at the Wind".

H1943 CHATHAM WHITE PINES FUNDS

Eight thousand dollars (\$8,000) to Triangle Land Conservancy to assist with the purchase of a wilderness tract in Chatham County of especial historical, botanical and environmental significance, known as White Pines.

H1944 JORDAN LAW ENFORCEMENT FUNDS

Ten thousand dollars (\$10,000) to Chatham County for providing law enforcement services in and around the Jordan Lake area and providing other services incident to the operation of the State Park facility at Jordan Lake.

H1945 CHATHAM CHILD DEVELOPMENT CENTER FUNDS

Three thousand dollars (\$3,000) to Chatham Child Development Center, Siler City, a division of the Orange-Person-Chatham Mental Health Center, for operating expenses, repairs, and maintenance.

H1946 SILER CITY HISTORY FUNDS

Three thousand dollars (\$3,000) to the Town of Siler City, to assist in the publication of a history of the Town of Siler City and other expenses incurred for the Centennial Celebration in 1987.

H1947 CHATHAM TRANSPORTATION FUNDS

Two thousand dollars (\$2,000) to the Chatham County Council on Aging, Inc., in Pittsboro, for meeting the transportation needs of the senior citizens of Chatham County.

H1948 ORANGE AGING SERVICES FUNDS

Five thousand five hundred dollars (\$5,500) to Orange County for the County Department on Aging for the purpose of enhancing its programs and services for the senior citizens of Orange County.

H1949 PITTSBORO BICENTENNIAL FUNDS

Three thousand dollars (\$3,000) to the Town of Pittsboro to assist with the bicentennial celebration and other necessary expenses.

H1950 ORANGE WOMEN'S CENTER FUNDS

Two thousand five hundred dollars (\$2,500) to the Orange County Women's Center, Inc., for public service programs.

H1951 COMMUNITY SHELTER PROJECT FUNDS

Three thousand dollars (\$3,000) to the Inter-Church Council for Social Service, Inc., (Inter-Faith Council for Social Service) of Orange County for operating funds for the Community Shelter Project.

H1952 CHATHAM HOSPICE FUNDS

Five thousand dollars (\$5,000) to Hospice of Chatham County, Inc., for operating expenses of its hospice program.

H1953 ORANGE/PERSON/CHATHAM MENTAL HEALTH FUNDS

Fifteen thousand dollars (\$15,000) to the Orange-Person-Chatham Area Mental Health, Mental Retardation, and Substance Abuse Authority for the purpose of providing a transitional residential facility for the homeless chronically mentally ill in Orange County, and for establishing a community support day program for the chronically mentally ill in Orange County. The Authority may contract for these services.

H1957 GREENE COUNTY RECREATION/TRANSPORTATION FUNDS

One thousand dollars (\$1,000) to Greene County for a recreation program, and ten thousand dollars (\$10,000) to Greene County to meet the transportation needs of its residents.

H1958 PITT-GREENVILLE CHAMBER OF COMMERCE FUNDS

One thousand dollars (\$1,000) to the Pitt-Greenville Chamber of Commerce, Inc., to promote the Pitt-Greenville area as a convention center and to encourage tourism.

H1959 PITT FARMERS MARKET FUNDS

Five thousand dollars (\$5,000) to Pitt County for construction of the Pitt County Farmers Market.

H1960 PITT COMMUNITY COLLEGE FUNDS

One thousand dollars (\$1,000) to the Department of Community Colleges for a High School Vocational/Technical Articulation Program at Pitt Community College.

H1961 PITT SENIOR CENTER FUNDS

Two thousand five hundred dollars (\$2,500) to Pitt County for the Pitt County Senior Citizens Center.

H1962 PITT-GREENVILLE ARTS COUNCIL FUNDS

One thousand dollars (\$1,000) to the Pitt-Greenville Arts Council for supplies necessary to enable the Council to continue its operation.

H1963 FAIRMONT LIBRARY FUNDS

Ten thousand dollars (\$10,000) to the Town of Fairmont, Robeson County, to renovate the Southern National Bank building for use as a public library.

H1964 GOLDSBORO ART LEAGUE FUNDS

Ten thousand dollars (\$10,000) to the Goldsboro Art League, Inc., for capital improvements to the Community Arts Council facility.

H1965 WAYNE FIREMAN'S ASSOCIATION FUNDS

Ten thousand dollars (\$10,000) to the Wayne County Fireman's Association for building or developing a training center for firemen.

H1966 WAYNE COMMUNITY FUNDS

Five thousand dollars (\$5,000) to the Wayne Community Foundation, Inc., for equipment for the Foundation's Crimestoppers program.

H1967 WACCAMAW FIRE DEPARTMENT AND RESCUE SQUAD FUNDS

One thousand dollars (\$1,000) to the Waccamaw Volunteer Fire Department and Rescue Squad, Inc., for operating and capital expenses.

H1969 PILOT MOUNTAIN RECREATION FUNDS

Seven thousand five hundred dollars (\$7,500) to the Pilot Mountain Civic and Recreation Authority to develop a fitness trail and purchase exercise equipment.

H1971 CITY OF DUNN FUNDS

Eight thousand dollars (\$8,000) to the City of Dunn, six thousand dollars (\$6,000) of which is for downtown revitalization, and two thousand dollars (\$2,000) of which is for Dunn's centennial celebration.

H1972 HARNETT INDUSTRIAL DEVELOPMENT FUNDS

Eight thousand dollars (\$8,000) to Harnett County for industrial development purposes.

H1975 COLUMBUS ARTS COUNCIL FUNDS

Three thousand dollars (\$3,000) to the Columbus County Arts Council, Inc., for operating expenses and capital improvements.

H1976 HARNETT HOSPICE FUNDS

Five thousand dollars (\$5,000) to Hospice of Harnett County, Inc., for operating expenses to enable Hospice of Harnett County to continue its vital and compassionate work with the terminally ill and their families.

H1977 T.A.L.O. FUNDS

Eight thousand dollars (\$8,000) to Transition Assistance for Longtime Offenders, Incorporated, for operating expenses to continue its work.

H1978 HARNETT COUNTY SCHOOL FUNDS

Eight thousand dollars (\$8,000) to the Harnett County Board of Education to be allocated as follows:

- (1) one thousand six hundred dollars (\$1,600) for programs to teach cardio-pulmonary resuscitation (CPR) and the Heimlich maneuver to students in grades six and above; and
- (2) six thousand four hundred dollars (\$6,400) for programs for hearing impaired and visually impaired students.

H1979 ASHE ARTS COUNCIL FUNDS

Thirty thousand dollars (\$30,000) to the Ashe County Arts Council, Inc., to construct a Performing Arts Center in Ashe County.

H1981 GALLERY PLAYERS FUNDS

Thirteen thousand dollars (\$13,000) to The Gallery Players, Inc., of Burlington for capital improvements, in the form of renovations, to

the Paramount Theatre Building in Burlington, to enhance the renewal of downtown Burlington as well as to promote the arts in Burlington.

H1982 BELGRADE COMMUNITY FUNDS

Fifteen thousand dollars (\$15,000) to the Belgrade Community Action Association to purchase recreation equipment for the Belgrade Community Center and to support the recreation programs of the Center.

H1983 SOUTH BRUNSWICK CHAMBER FUNDS

One thousand dollars (\$1,000) to the South Brunswick Islands Chamber of Commerce to promote travel and tourism.

H1984 BRUNSWICK COMMUNITY FUNDS

Three thousand five hundred dollars (\$3,500) to Brunswick County to be allocated as follows for improvements to the listed community buildings:

(1) Holden Beach Senior Citizens Center	\$1,050
(2) Town Creek Senior Citizens Center	\$1,050
(3) Pearly Vereen Community Building	\$ 700
(4) Leland Community Building	\$ 700.

H1985 GRIFTON RAILROAD DEPOT FUNDS

Ten thousand dollars (\$10,000) to the Town of Grifton to renovate the Grifton Railroad Depot for use as a community building, provided the Town raises the sum of five thousand dollars (\$5,000) of non-State funds to match this appropriation on a two-to-one basis.

H1986 SNOW HILL ARTS CENTER FUNDS

One thousand dollars (\$1,000) to the Town of Snow Hill to purchase equipment and supplies for the Snow Hill Arts Center.

H1987 N. C. BLACK REPERTORY FUNDS

Five thousand dollars (\$5,000) to the North Carolina Black Repertory Company, Inc., to expand its educational touring program throughout the State.

H1988 WAKE CHILDREN'S FUNDS

One thousand dollars (\$1,000) to the Wake County Child Advocacy Council for a grant-in-aid to help make child care affordable for every family that needs it.

H1989 EBC CHILD CARE FUNDS

Five thousand dollars (\$5,000) to the Ebenezer Baptist Church Child Care Center in Rocky Mount for operating expenses in providing day care to the public.

H1990 WVSP PUBLIC RADIO FUNDS

Five thousand dollars (\$5,000) to Sound and Print United, Incorporated, for operating expenses of public radio WVSP.

H1992 EDUCATIONAL SEARCH FUNDS

Five thousand dollars (\$5,000) to Saint Augustine's College in Raleigh to the Educational Talent Search Project, for operating expenses incurred in running the project, which is designed to encourage minority and other youths to continue with their education.

H1993 ELM CITY RESCUE FUNDS

Five thousand dollars (\$5,000) to Wilson County for the Elm City Rescue Squad, for operating expenses.

H1994 WILSON OIC FUNDS

Five thousand dollars (\$5,000) to Opportunities Industrialization Center of Wilson, Incorporated, for operating expenses of their public service programs.

H1995 FAYETTEVILLE GROUPS FUNDS

- (1) Five thousand eight hundred dollars (\$5,800) to Citizens Referral and Information Services, Incorporated, of Fayetteville to provide a "hot-line" for information about local government services and policies.
- (2) Three thousand nine hundred dollars (\$3,900) to Orange Street School Restoration and Historical Association, Inc., to restore and renovate the Old Orange Street School in Fayetteville for use as a museum, art center, or other cultural center.
- (3) Three thousand nine hundred dollars (\$3,900) to Operation Sickle Cell, Incorporated, of Cumberland County to educate the public about sickle cell disease.
- (4) Three thousand nine hundred dollars (\$3,900) to the Spring Lake Community Center Foundation, Inc., of Cumberland County for capital improvements to the Spring Lake Civic Center.
- (5) Three thousand nine hundred dollars (\$3,900) to Hollywood Heights Community Club, Incorporated, to support the Club's community service programs.
- (6) Two thousand nine hundred dollars (\$2,900) to the Fayetteville Business and Professional League to promote small business in Fayetteville.
- (7) Two thousand nine hundred dollars (\$2,900) to the City of Fayetteville to provide transportation for senior citizens.
- (8) One thousand nine hundred fifty dollars (\$1,950) to the Board of Governors of The University of North Carolina to provide funds for the continuing education programs at Fayetteville State University.
- (9) One thousand nine hundred fifty dollars (\$1,950) to the Marlboro Improvement Association of Cumberland County to support the Association's community service programs.

H1996 NASH COUNTY FUNDS

- (1) Twenty thousand dollars (\$20,000) to Nash County for a training center and equipment for the fire and rescue squad.

- (2) Five thousand dollars (\$5,000) to the Spring Hope Historical Association, Inc., for downtown improvement.
- (3) Four thousand dollars (\$4,000) to the Nash County Historical Association for operating and capital expenses at Historical Stonewall.

H2000 RICHARD THOMPSON PARK FUNDS

Six thousand five hundred dollars (\$6,500) to The Richard M. Thompson Foundation to develop The Richard M. Thompson Park in Stanly for community enjoyment.

H2001 PENDERLEA COMMUNITY BLDG. FUNDS

Seven hundred dollars (\$700.00) to the Willarlea Ruritan Club, Inc., in Penderlea for repairs to the Penderlea Community Building.

H2002 CUMBERLAND SHELTERED WORKSHOP FUNDS

Fifteen thousand dollars (\$15,000) to Cumberland County Board of Education for the Cumberland Sheltered Workshop to make improvements to the on-premises streets of the Cumberland Sheltered Workshop.

H2003 KIZITO PROJECT FUNDS

Five thousand dollars (\$5,000) to The Kizito Project, Incorporated, of Wilson County, to assist with operating expenses of its youth employment programs and its tutorial program.

H2004 CABARRUS FARMERS MARKET FUNDS

Thirty-five thousand dollars (\$35,000) to Cabarrus County to improve the Cabarrus County Farmers Market.

H2006 THE RELATIVES FUNDS

Fifteen thousand dollars (\$15,000) to The Relatives, Inc., in Charlotte for operating expenses and the renovation of a family crisis intervention and counseling home.

H2007 SAMPSON ALUMNI FUNDS

Seven hundred dollars (\$700.00) to the Sampson High School Alumni Association, Incorporated, to support the programs of the Association.

H2008 ALLEGHANY HIGGINS CENTER FUNDS

Ten thousand dollars (\$10,000) to Alleghany County to construct the Carlisle Higgins Agricultural and Civic Center, provided the County raises the same amount of private funds to match this appropriation on a dollar-for-dollar basis.

H2010 YORK TAVERN/DOBSON COMMUNITY FUNDS

- (1) Five thousand dollars (\$5,000) to The Rockford Preservation Society, Inc., to restore York Tavern in Surry County.
- (2) One thousand five hundred dollars (\$1,500) to the City of Dobson for the Dobson Community Council, Inc., to repair and maintain the Dobson Community Building.

H2011 PASQUOTANK FIRE FUNDS

Fifteen thousand dollars (\$15,000) to Pasquotank County for purchase of a fire truck to be located at the Sound Neck Fire Station.

H2012 CLEVELAND KIDNEY ASSOCIATION FUNDS

Eight thousand dollars (\$8,000) to The Cleveland County Kidney Association, Inc., for operating expenses of the association.

H2013 PITT HUMAN SERVICE PROJECTS FUNDS

- (1) One thousand dollars (\$1,000) to Pitt County for the Pitt County Mental Health Department to use for equipment and supplies for the Pitt County Developmental Center.
- (2) One thousand dollars (\$1,000) to the United Cerebral Palsy of North Carolina, Inc., for equipment and supplies for the Greenville Developmental Center.
- (3) Two thousand dollars (\$2,000) to the Pitt County Association for Retarded Citizens, Inc., for its "Laughinghouse Fund".
- (4) Two thousand dollars (\$2,000) to the Eastern Carolina Home Health Services, Inc., for operating expenses of its hospice program.
- (5) Two thousand dollars (\$2,000) to Children's Services of Eastern Carolina, Inc., for equipment for the Ronald McDonald House in Pitt County.

H2014 CHICOD SCHOOL/PITT HIGH SCHOOL FUNDS

- (1) One thousand eight hundred dollars (\$1,800) to the Pitt County Board of Education to support the recreation programs at Chicod Elementary School.
- (2) Six thousand dollars (\$6,000) to the Pitt County Board of Education for high school band uniforms and athletic equipment.

H2015 JONES SENIOR CITIZENS FUNDS

Seven thousand dollars (\$7,000) to the United Tri-County Senior Citizens Corporation, Incorporated, to provide operating expenses for the Jones County Unit of United Tri-County Senior Citizens Corporation.

H2016 HAYES TAYLOR YMCA FUNDS

Fifteen thousand dollars (\$15,000) to The Young Men's Christian Association of Greensboro, Incorporated, for operating expenses of the social and recreational programs at the Hayes Taylor YMCA that benefit the entire community.

H2017 RALEIGH ORATORIO SOCIETY FUNDS

Three thousand dollars (\$3,000) to the Raleigh Oratorio Society to provide funds for the Society's 1986-87 concert season, which will continue to provide the community at large with excellent concerts of vocal music at minimum charge.

H2018 ART SCHOOL FUNDS

Ten thousand dollars (\$10,000) to The Art School for operations of the Center for Visual & Performing Arts in Carrboro.

H2020 WILSON COMMUNITY FUNDS

Five thousand dollars (\$5,000) to the Wilson Community Improvement Association, Incorporated, to support the community improvement programs of the Association.

H2023 CLEVELAND COUNTY HOSPICE FUNDS

Five thousand dollars (\$5,000) to the Hospice of Cleveland County, Inc., for operating expenses of its hospice program.

H2027 FAYETTEVILLE GROUPS FUNDS

- (1) Five thousand eight hundred dollars (\$5,800) to Citizens Referral and Information Services, Inc., of Fayetteville to provide a "hot-line" for information about local government services and policies.
- (2) Three thousand nine hundred dollars (\$3,900) to Orange Street School Restoration and Historical Association, Inc., to restore and renovate the Old Orange Street School in Fayetteville for use as a museum, art center, or other cultural center.
- (3) Three thousand nine hundred dollars (\$3,900) to Operation Sickle Cell, Incorporated, of Cumberland County to educate the public about sickle cell disease.
- (4) Three thousand nine hundred dollars (\$3,900) to the Spring Lake Community Center Foundation, Inc., of Cumberland County for capital improvements to the Spring Lake Civic Center.
- (5) Three thousand nine hundred dollars (\$3,900) to Hollywood Heights Community Club, Incorporated, to support the Club's community service programs.
- (6) Two thousand nine hundred dollars (\$2,900) to the Fayetteville Business and Professional League to promote small business in Fayetteville.
- (7) Two thousand nine hundred dollars (\$2,900) to the City of Fayetteville to provide transportation for senior citizens.
- (8) One thousand nine hundred fifty dollars (\$1,950) to the Board of Governors of The University of North Carolina for the Continuing Education Center at Fayetteville State University.
- (9) One thousand nine hundred fifty dollars (\$1,950) to the Marlboro Improvement Association of Cumberland County to support the Association's community service programs.

H2028 CHICAMACOMICO STATION FUNDS

Ten thousand dollars (\$10,000) to the Department of Cultural Resources, Division of Archives and History, to complete the restoration of the Chicamacomico Lifesaving Station by the Chicamacomico Historical Association, Inc. These funds shall not revert to the General Fund at the end of the 1986-87 fiscal year but shall remain available for expenditure for the purpose set out in this provision until used.

H2029 CAMP OAK HILL FUNDS

Three thousand dollars (\$3,000) to Oak Hill Fellowship Center, Inc., to purchase recreation equipment for Camp Oak Hill in Granville County and to improve the Camp's facilities to accommodate children with asthma.

H2033 EASTOVER COMMUNITY PARKS/CUMBERLAND RESCUE FUNDS

- (1) Twenty thousand dollars (\$20,000) to the Eastover Community Park Association, Inc., to make improvements to the community ball park and parking area.
- (2) Ten thousand dollars (\$10,000) to the Cumberland County Rescue Squad for operating expenses and equipment.

H2034 PAGE-WALKER HOTEL FUNDS

Fifteen thousand dollars (\$15,000) to the Town of Cary to continue the restoration of the Page-Walker Hotel in Cary.

H2036 CRESWELL POLICE FUNDS

Ten thousand dollars (\$10,000) to the Town of Creswell, Washington County, to purchase a police car.

H2037 YADKIN HANDICAPPED AREAS FUNDS

Twenty-five thousand dollars (\$25,000) to Yadkin County to modify county buildings to provide access to the handicapped.

H2038 HOKE CHILDREN'S CENTER/LUMBERTON FIRE DEPT. FUNDS

- (1) Twenty-five thousand dollars (\$25,000) to Hoke County to construct an addition to the Hoke County Children's Center.
- (2) One thousand dollars (\$1,000) to the City of Lumberton for the Lumberton Fire Department to restore the building used by the fire department.

H2039 J. C. CAMPBELL FOLK SCHOOL FUNDS

Seven thousand one hundred dollars (\$7,100) to the John C. Campbell Folk School, Incorporated, for capital improvements and operating expenses.

H2042 MITCHELL COMMUNITY BUILDING FUNDS

Five thousand dollars (\$5,000) to Stokes County for capital improvements and equipment for the Mitchell Community Building.

H2043 GREENVILLE A.M.E. ZION FUNDS

Five thousand dollars (\$5,000) to Greenville Memorial A.M.E. Zion, Inc., to purchase playground equipment for the Greenville Memorial A.M.E. Zion Day Care Center in Charlotte and to provide operating expenses for the Center.

H2044 WOMEN'S FORUM FUNDS

One thousand dollars (\$1,000) to The Women's Forum of North Carolina, Inc., for a grant-in-aid to aid in the printing of a short history, with the names of women leaders in the fields of medicine, education, law, and in the cultural arts, who are available to serve on boards and commissions.

H2045 NATIVE AMERICAN FUNDS

One thousand nine hundred dollars (\$1,900) to the Triangle Native American Society, Inc., of Raleigh, for operating expenses, to allow the Society to continue its work of raising public awareness of the cultural and economic contributions made by native Americans.

H2047 CLEVELAND LIBRARY FUNDS

Four thousand dollars (\$4,000) to the Cleveland County Memorial Library for operating expenses.

H2048 POLK HOSPICE FUNDS

Five thousand dollars (\$5,000) to Hospice of Polk County, Inc., for operating expenses of its hospice program.

H2050 CLEVELAND/RUTHERFORD COUNTY FUNDS

- (1) Fifteen thousand dollars (\$15,000) to Cleveland County for Cleveland County fire and rescue operating expenses.
- (2) Thirty thousand dollars (\$30,000) to Cleveland County for The Children's Center to support its children's service programs.
- (3) Five thousand dollars (\$5,000) to the Council on the Aging of Cleveland County, N.C., Inc., for the Cleveland County Senior Center.
- (4) Twenty thousand dollars (\$20,000) to Rutherford County for the Rutherford Vocational Workshop to establish an ADAP transition pilot program that would serve mentally retarded persons for whom ADAP services are not available, provided Rutherford County matches this appropriation with local-in-kind resources.

H2051 MISSING MILL PARK FUNDS

Ten thousand dollars (\$10,000) to the Town of Hertford to remove pilings from the waterway at the Missing Mill Park.

H2053 WASHINGTON CIVIC CENTER FUNDS

Fifteen thousand dollars (\$15,000) to the City of Washington, Beaufort County, to landscape the Civic Center and to provide supplies for the Civic Center.

H2054 ROCKINGHAM ECONOMIC DEVELOPMENT/STOKES COMMUNITY FUNDS

- (1) Eighteen thousand dollars (\$18,000) to Rockingham County for the Rockingham County Development Commission, for operating expenses to enable the Commission to continue its work of encouraging the economic growth and development of Rockingham County.
- (2) Ten thousand dollars (\$10,000) to Stokes County for operating expenses and capital improvements for the Sandy Ridge and the Pine Hall Community Centers, to be divided equally between the two Centers.

H2057 DUPLIN LAW ENFORCEMENT FUNDS

Three thousand five hundred dollars (\$3,500) to Duplin County for the Duplin County Law Enforcement Officers' Association to construct a

firing range and to support the law enforcement programs of the Association.

H2061 OLD FORT-MARION-MCDOWELL COUNTY RECREATION FUNDS

Twenty-three thousand dollars (\$23,000) to the Old Fort-Marion-McDowell County Recreation Commission for community recreational and capital improvement programs.

H2062 YOUTH OPPORTUNITY HOMES/GLADE STREET YMCA FUNDS

- (1) Twelve thousand two hundred sixty-eight dollars (\$12,268) to the Youth Opportunity Homes, Incorporated, of Winston-Salem, for operating expenses to enable Youth Opportunity Homes to continue to serve the youth of Winston-Salem and Forsyth County by providing group homes and emergency shelter.
- (2) Five thousand dollars (\$5,000) for Young Women's Christian Association, Inc., of Winston-Salem and Forsyth County to be allocated as follows:
Two thousand dollars (\$2,000) for conversion of fire doors to enhance accessibility of all areas of the facility by the handicapped and disabled; and
three thousand dollars (\$3,000) for the Senior Fitness Program, which is a progressive exercise program for senior citizens and persons with debilitating health problems.

H2063 CHOCOWINITY COMMUNITY BUILDING FUNDS

Ten thousand dollars (\$10,000) to the Town of Chocowinity, Beaufort County, for repairs to the community building and equipment for the community building.

H2064 WAYNE HISTORICAL ASSOCIATION FUNDS

Ten thousand dollars (\$10,000) to the Wayne County Historical Association to be used exclusively for the museum renovation that it is undertaking.

H2066 YANCEY COMMITTEE ON AGING FUNDS

Fifteen thousand dollars (\$15,000) to the Yancey County Committee on Aging, Incorporated, for improvements, repairs, and equipment for the Yancey County Senior Citizens Center.

H2067 GREENE RETARDED CITIZENS ASSOCIATION FUNDS

One thousand dollars (\$1,000) to the Association for Retarded Citizens/North Carolina, Inc., for the Association for Retarded Citizens' Greene County Chapter to maintain the Chapter's van, which is used to transport members to workshops and programs.

H2068 GATEKEEPER HOUSE FUNDS

Ten thousand dollars (\$10,000) to the Business and Professional Women's Club of Asheboro, North Carolina, Inc., to be used by the Gatekeeper House Restoration Committee to restore the Gatekeeper House in Asheboro.

H2070 GREENE SENIOR CITIZENS FUNDS

Three thousand dollars (\$3,000) to Greene County for operating and capital expenses at the Greene County Senior Citizens Center.

H2071 PITT TOBACCO FESTIVAL FUNDS

Two thousand dollars (\$2,000) to the Southern Flue Cured Tobacco Festival, Inc., to sponsor the Pitt County Tobacco Festival.

H2072 PENDER SENIOR CENTER FUNDS

Seven hundred dollars (\$700.00) to Pender County for capital and operating expenses of the Pender County Senior Citizens Center.

G2074 LINCOLN/GASTON FIRE FUNDS

(1) Twelve thousand dollars (\$12,000) to Gaston County to be divided equally among all the rural fire departments in Gaston County and the fire departments of cities and towns in Gaston County whose population, according to the most recent population estimates certified by the State Budget Office, is less than 40,000. These funds shall be used for operating and capital expenses of the fire departments.

(2) Four thousand dollars (\$4,000) to Lincoln County to be divided equally among all the rural fire departments in Lincoln County, to be used for operating and capital expenses.

H2077 MCDOWELL ARTS AND CRAFTS ASSOCIATION FUNDS

Forty thousand dollars (\$40,000) to the McDowell Arts and Crafts Association to build a community arts facility, provided the sum of eighty thousand dollars (\$80,000) is raised by the McDowell Arts and Crafts Association to match this appropriation on the basis of two dollars (\$2.00) of non-State funds for every one dollar (\$1.00) of State funds.

H2082 LATHAM HOUSE FUNDS

Ten thousand dollars (\$10,000) to the Department of Cultural Resources, Division of Archives and History, to assist in the adaptive restoration of the Latham House. Funds appropriated in this act shall not revert to the General Fund at the end of the 1986-87 fiscal year.

H2087 TRANSYLVANIA COMMUNITY CENTER FUNDS

Fifteen thousand dollars (\$15,000) to Transylvania County for capital improvements to the Transylvania County Community Center building.

H2088 FRANKLIN PARK POOL/WESTERN CAROLINA RESCUE MISSION FUNDS

(1) Fifteen thousand dollars (\$15,000) to the City of Brevard to assist in replacement of the Franklin Park Pool.

(2) Three thousand two hundred fifty dollars (\$3,250) to the Western Carolina Rescue Mission, Inc., to assist in maintaining a shelter for the homeless.

H2094 DARE HOSPICE FUNDS

Five thousand dollars (\$5,000) to Dare Hospice, Inc., for operating expenses.

PART VI.—CORRECTIONS TO 1985-86 APPROPRIATIONS FOR
LOCAL AND STATEWIDE NEEDS

Sec. 9. Section 79 of Chapter 778 of the 1985 Session Laws is rewritten to read:

“BLADEN COUNTY HARMONY HALL FUNDS

Sec. 79. There is appropriated from the General Fund to the Bladen County Historical Society the sum of one thousand dollars (\$1,000) for fiscal year 1985-86 to restore Harmony Hall in Bladen County. The funds appropriated by this section shall not revert at the end of the 1985-86 fiscal year, but shall remain available until June 30, 1987.”

Sec. 10. Section 159 of Chapter 778 of the 1985 Session Laws is rewritten to read:

“BLADEN COUNTY HARMONY HALL FUNDS

Sec. 159. There is appropriated from the General Fund to the Bladen County Historical Society the sum of one thousand dollars (\$1,000) for fiscal year 1985-86 to restore Harmony Hall in Bladen County. The funds appropriated by this section shall not revert at the end of the 1985-86 fiscal year, but shall remain available until June 30, 1987.”

Sec. 11. Section 662 of Chapter 778 of the 1985 Session Laws is rewritten to read:

“VANCE 911 FUNDS

Sec. 662. There is appropriated from the General Fund to the City of Henderson the sum of ten thousand dollars (\$10,000) for fiscal year 1985-86 to fund a 911 emergency communications center to serve the City of Henderson and Vance County. The funds appropriated by this section shall not revert at the end of the 1985-86 fiscal year, but shall remain available until June 30, 1987.”

Sec. 12. Section 1315 of Chapter 778, of the 1985 Session Laws is rewritten to read:

“GREENSBORO POLICE COMMUNITY RELATIONS FUNDS

Sec. 1315. There is appropriated from the General Fund to the City of Greensboro the sum of ten thousand dollars (\$10,000) for fiscal year 1985-86 for Greensboro police community relations. The funds appropriated by this section shall not revert at the end of the 1985-86 fiscal year, but shall remain available until June 30, 1987.”

Sec. 13. Section 1325 of Chapter 778 of the 1985 Session Laws is rewritten to read:

“STOKES COUNTY MICROWAVE RADIO SYSTEM FUNDS

Sec. 1325. There is appropriated from the General Fund to Stokes County the sum of ten thousand dollars (\$10,000) for fiscal year 1985-86 for a microwave radio system for the Sheriff's Department, Fire Department, Emergency Department, and Maintenance Department of Stokes County. The funds appropriated by this section shall not revert at the end of the 1985-86 fiscal year, but shall remain available until June 30, 1987.”

Sec. 14. Section 1378 of Chapter 778 of the 1985 Session Laws is rewritten to read:

“MOUNT HEBRON LODGE FUNDS

Sec. 1378. There is appropriated from the General Fund to the Mount Hebron Lodge #42 F & AM the sum of thirty-five thousand dollars

(\$35,000) for fiscal year 1985-86 for remedial programs, dropout counseling, and a nutrition program. The funds appropriated by this section shall not revert at the end of the 1985-86 fiscal year but shall remain available until June 30, 1987."

Sec. 15. Section 5.6 of Chapter 480, Session Laws of 1985, is amended by deleting "Chapter 221" and substituting "Chapter 226".

Sec. 16. Section 59 of Chapter 757, Session Laws of 1985, is amended by adding the following immediately after the first sentence: "Notwithstanding any other provision of law, funds raised for the construction and gift-in-place to the State of a velodrome shall be considered toward the non-State match required by this section."

Sec. 17. Section 207(d) of Chapter 757, Session Laws of 1985, is amended by adding the following at the end: "Funds appropriated by this subsection shall remain available to the Commission until June 30, 1987. Any unexpended funds at the end of the 1986-87 fiscal year shall revert to the General Fund."

Sec. 18. The sections in this Part are effective upon ratification and apply retroactively to June 30, 1986.

PART VII.—SALARIES, RETIREMENT, AND EMPLOYEE BENEFITS —MOST STATE EMPLOYEES/SALARY INCREASES

Sec. 19. (a) The salaries in effect for fiscal year 1985-86 for all permanent full-time State employees paid from the General Fund or the Highway Fund shall be increased, on July 1, 1986, unless otherwise provided by this Part, by seventy-five dollars (\$75.00) per month. The Director of the Budget may transfer from the salary increase reserve fund in Section 2 of this act for this purpose all funds necessary for the seventy-five dollars (\$75.00) per month increase, including funds for the employer's retirement and Social Security contributions.

Except as otherwise provided in this act, the salaries for fiscal year 1985-86 for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased seventy-five dollars (\$75.00) per month commencing July 1, 1986. The Director of the Budget may transfer from the salary increase reserve fund in Section 2 of this act for this purpose all funds necessary for the seventy-five dollars (\$75.00) per month increase, including funds for the employer's retirement and Social Security contributions.

The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase, on and after July 1, 1986, of seventy-five dollars (\$75.00) per month, including funds for the employer's retirement and Social Security contributions, for the permanent full-time employees of the agency, provided that the employing agency elects to make available the necessary funds.

The salaries in effect for fiscal year 1985-86 for all permanent part-time State employees shall be increased on July 1, 1986, by pro rata amounts of the seventy-five dollars (\$75.00) per month salary increase provided for permanent full-time employees covered by the provisions of this subsection.

Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department by pro rata amounts approximately equal to seventy-five dollars (\$75.00) per month, on and after July 1, 1986.

The Director of the Budget may adopt special rules to apply to salary increases for employees whose salaries are paid from interagency receipts where payments for the services of those employees originate from State appropriations, to the end that the effective purchasing power of the appropriations is not materially reduced as a result of these salary increases. The salary increase may be up to seventy-five dollars (\$75.00) per month, on and after July 1, 1986, and funds made available for it shall include amounts necessary for the increase and the employer's retirement and Social Security contributions. Any questions as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget.

(b) The salary increase reserve fund in Section 2 of this act contain funds equivalent to an average annual salary increase of one and two-tenths percent (1.2%) for permanent State employees as of June 30, 1986, which shall be transferred by the Director of the Budget, including funds for the employer's retirement and social security contributions, to all employing agencies to be awarded, on and after July 1, 1986, to permanent State employees paid from the General Fund or the Highway Fund on the basis of meritorious job performance. All permanent employees of State agencies paid from the General Fund or the Highway Fund shall be eligible to receive salary increases provided by this subsection on the basis of satisfactory job performance as may be determined by each employing agency, provided such employees have been continuously employed by a State agency or institution, a local board of education, or a community college institution for at least two years. Under this subsection, during fiscal year 1986-87 no employee shall be entitled to receive, however, more than two one-quarter step salary increases on the State salary schedule adopted by the State, payable according to the performance pay policies established by the State. As used in this subsection, approved leaves of absence allowed by the State's established personnel policies, or any other involuntary loss of employment for up to 12 months, shall not constitute a break in the continuous employment of an employee required under this subsection. The provisions of this subsection shall not apply to permanent State employees whose salaries are determined by Sections 20, 21, 22, 23, 28, 29, 30, 31, 32, 33, 34, 35, or 36 of this act or to employees covered by the provisions of G.S. 20-187.3(a) or the provisions of G.S. 7A-102(c).

—GOVERNOR/SALARY INCREASE

Sec. 20. Effective July 1, 1986, the first sentence of G.S. 147-11 is rewritten to read:

"The salary of the Governor shall be one hundred thousand dollars (\$100,000) annually, payable monthly."

—COUNCIL OF STATE/SALARY INCREASES

Sec. 21. The annual salaries of the Council of State, payable monthly, for fiscal year 1986-87, shall be as follows:

<i>Council of State</i>	<i>Annual Salary</i>
Lieutenant Governor	\$61,044
Attorney General	61,044
Secretary of State	61,044
State Treasurer	61,044
State Auditor	61,044
Superintendent of Public Instruction	61,044
Agriculture Commissioner	61,044
Insurance Commissioner	61,044
Labor Commissioner	61,044

—NON-ELECTED DEPARTMENT HEADS/SALARY INCREASES

Sec. 22. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, of the non-elected heads of the principal State departments for fiscal year 1986-87 are:

<i>Non-Elected Department Heads</i>	<i>Annual Salary</i>
Secretary of Administration	\$61,044
Secretary of Commerce	61,044
Secretary of Correction	61,044
Secretary of Crime Control and Public Safety	61,044
Secretary of Cultural Resources	61,044
Secretary of Human Resources	61,044
Secretary of Natural Resources and Community Development	61,044
Secretary of Revenue	61,044
Secretary of Transportation	61,044

—CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Sec. 23. The annual salaries, payable monthly, for fiscal year 1986-87 for the following State officials are:

	<i>Annual Salary</i>
Chairman, Alcoholic Beverage Control Commission	\$58,716
Commissioner of Motor Vehicles	58,716
Commissioner of Banks	58,716
Deputy Banking Commissioner	44,892
Chairman, Employment Security Commission	58,716
President, Department of Community Colleges	77,244
State Personnel Director	61,044
Chairman, Parole Commission	53,592
Members of the Parole Commission	49,428
Chairman, Industrial Commission	52,704
Members of the Industrial Commission	51,420

	<i>Annual Salary</i>
Executive Director, Agency for Public Telecommunications	49,428
Director, Seafood Industrial Park Authority	32,700
General Manager, Ports Railway Commission	44,592
Director, Museum of Art	60,180
Director, State Ports Authority	68,256
Controller, State Board of Education	70,656
Executive Director, Wildlife Resources Commission	50,628
Executive Director, North Carolina Housing Finance Agency	72,768
Executive Director, North Carolina Technological Development Authority	38,820

—PUBLIC SCHOOL TEACHERS AND ASSISTANT PRINCIPALS/SALARY INCREASES

Sec. 24. The salaries in effect for fiscal year 1985-86 for all teachers and assistant principals in the public schools supported out of State funds shall be increased, on and after July 1, 1986, by an average of six and one-half percent (6.5%) rounded to conform to the steps in the State salary ranges that the State Board of Education adopts. The Director of the Budget is authorized to transfer from the salary increase reserve fund in Section 2 of this act all funds necessary for the six and one-half percent (6.5%) salary increase including funds for the employer's retirement and Social Security contributions.

—OTHER PUBLIC SCHOOL CERTIFIED PERSONNEL/SALARY INCREASES

Sec. 25. The salaries in effect for fiscal year 1985-86 for all permanent superintendents, associate superintendents, assistant superintendents, supervisors, directors, coordinators, program administrators, principals and any other classes of employees required to be certified as a condition of employment in the public schools supported by State funds, other than those covered by Section 24 of this act, shall be increased on and after July 1, 1986, by an average of five percent (5%) rounded to conform to the steps in the State salary ranges that the State Board of Education adopts. The Director of the Budget is authorized to transfer from the salary increase reserve fund in Section 2 of this act all funds necessary for the five percent (5%) salary increase including funds for the employer's retirement and Social Security contributions.

—PUBLIC SCHOOL NONCERTIFIED PERSONNEL/SALARY INCREASES

Sec. 26. (a) The salaries in effect for fiscal year 1985-86 for all noncertified permanent full-time public school employees supported by State funds and paid from the State public school fund and from allocations to local school units for State Aid-Exceptional Children ADM appropriation, Health Education Coordinator grants, Community Schools Coordinator grants, Vocational Education State Aid Nonmatching Expansion ADM allocations, Vocational Education State Aid Extended

Day ADM allocations, and State-matching funds for School Food Service Supervisors shall be increased by seventy-five dollars (\$75.00) per month, on and after July 1, 1986, except for school bus drivers. The salaries in effect for fiscal year 1985-86 for all noncertified permanent part-time public school employees shall be increased on July 1, 1986, by pro rata amounts of the seventy-five dollars (\$75.00) per month salary increase provided for permanent full-time employees covered by the provisions of this subsection. The State Board of Education shall adjust the 1985-86 State salary schedules for these noncertified permanent public school employees, effective July 1, 1986, to reflect the seventy-five dollars (\$75.00) per month salary increase authorized by this section.

(b) The fiscal year 1985-86 pay rates adopted by local boards of education for school bus drivers shall be increased by five percent (5%), on and after July 1, 1986, to the extent that such rates of pay are supported by the allocation of State funds from the State Board of Education. Local boards of education shall increase the rates of pay for all school bus drivers who were employed during fiscal year 1985-86 and who continue their employment for fiscal year 1986-87 by five percent (5%) on and after July 1, 1986.

(c) The salary increase reserve fund in Section 2 of this act contains funds equivalent to an average annual salary increase of one and two-tenths percent (1.2%) for employees covered by subsection (a) of this section as of June 30, 1986, which shall be transferred by the Director of the Budget, including funds for the employer's retirement and social security contributions, to the State Board of Education and to local educational agencies to be awarded, on and after July 1, 1986, to employees covered by subsection (a) of this section and paid from State funds on the basis of meritorious job performance. All such employees paid from State funds shall be eligible to receive salary increases provided by this subsection on the basis of satisfactory job performance as may be determined by each local employing agency, provided such employees have been continuously employed by a State agency or institution, a local board of education, or a community college institution for at least two years. Under this subsection, during fiscal year 1986-87 no employee shall be entitled to receive, however, more than two one-quarter step salary increases on the State salary schedule adopted by the State Board of Education, payable according to the performance pay policies established by the local educational agency. As used in this subsection, approved leaves of absence allowed by the local educational agencies' established personnel policies, or any other involuntary loss of employment for up to 12 months, shall not constitute a break in the continuous employment of an employee required under this subsection.

(d) The Director of the Budget may transfer from the salary increase reserve fund created in Section 2 of this act all funds necessary for the salary increases provided by this section for noncertified permanent public school employees, including funds for the employer's retirement and Social Security contributions.

—COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Sec. 27. The Director of the Budget may transfer from the salary increase reserve fund created in Section 2 of this act funds necessary to

provide an annual salary increase of five percent (5%), including funds for the employer's retirement and Social Security contributions, commencing July 1, 1986, for all community college institutional personnel supported by State funds. These funds may not be used for any purpose other than for the salary increases and necessary employer contributions.

—HIGHER EDUCATION PERSONNEL/SALARY INCREASES

Sec. 28. (a) The Director of the Budget may transfer from the salary increase reserve fund created in Section 2 of this act funds necessary to provide an annual average salary increase of four percent (4%), including funds for the employer's retirement and Social Security contributions, commencing July 1, 1986, for all employees of The University of North Carolina supported by State funds who are exempt from the State Personnel Act. These funds shall be allocated to individuals according to rules adopted by the Board of Governors and may not be used for any purpose other than for the salary increases and necessary employer contributions.

(b) The Director of the Budget may transfer from the salary increase reserve fund created in Section 2 of this act funds equivalent to an average annual salary increase of one percent (1%) as of June 30, 1986, to provide for salary increases to be used in lieu of merit salary increases and longevity pay for employees of The University of North Carolina who are supported by State funds and who are exempt from the State Personnel Act. Funds appropriated for this purpose are to be allocated to individuals in accordance with rules adopted by the Board of Governors and may not be used to establish any new positions.

—LEGISLATORS/SALARY AND EXPENSE INCREASES

Sec. 29. Effective upon convening of the 1987 Regular Session of the General Assembly, G.S. 120-3(a) and (b) are rewritten to read:

“(a) The Speaker of the House shall be paid an annual salary of twenty-eight thousand four hundred fifty-two dollars (\$28,452) payable monthly and an expense allowance of nine hundred twenty-nine dollars (\$929.00) per month. The President Pro Tempore of the Senate shall be paid an annual salary of seventeen thousand four hundred dollars (\$17,400) payable monthly and an expense allowance of six hundred three dollars (\$603.00) per month. The Speaker Pro Tempore of the House shall be paid an annual salary of fourteen thousand six hundred fifty-two dollars (\$14,652) payable monthly and an expense allowance of three hundred thirty-seven dollars (\$337.00) per month. The minority leader in the House and the majority and minority leader in the Senate shall each be paid an annual salary of twelve thousand four hundred fifty-six dollars (\$12,456) payable monthly, and an expense allowance of three hundred thirty-seven dollars (\$337.00) per month.

(b) Every other member of the General Assembly shall receive increases in annual salary and expense allowances only to the extent of and in the amounts equal to the average increases received by employees of the State, effective upon convening of the next regular session of the General Assembly after enactment of these increased amounts. Accordingly, upon convening of the 1987 Regular Session of the General Assembly, every other member of the General Assembly shall be paid an annual salary of ten thousand one hundred forty dollars (\$10,140) payable

monthly, and an expense allowance of two hundred fifty-two dollars (\$252.00) per month."

—GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Sec. 30. G.S. 120-37(c) is amended by deleting the phrase "thirty-five thousand six hundred fifty-two dollars (\$35,652)" and substituting the phrase "thirty-seven thousand four hundred forty dollars (\$37,440)".

—SERGEANT-AT-ARMS AND READING CLERK/SALARY INCREASES

Sec. 31. G.S. 120-37(b) is amended by deleting "one hundred sixty dollars (\$160.00)", and substituting "one hundred sixty-eight dollars (\$168.00)".

—LEGISLATIVE EMPLOYEES/SALARY INCREASES

Sec. 32. The Legislative Administrative Officer may increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1985-86, by seventy-five dollars (\$75.00) per month commencing July 1, 1986. The granting of this legislative salary increase does not affect the status of employees' eligibility for other salary increments. Funds in the salary increase reserve fund created in Section 2 of this act shall provide the salary increase authorized by this section and Section 19(b) of this act, including the employer's retirement and Social Security contributions. Nothing in this Part limits any of the provisions of G.S. 120-32.

—JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

Sec. 33. The annual salary, for fiscal year 1986-87, of the specified judicial branch officials is as follows:

<i>Judicial Branch Officials</i>	<i>Annual Salary</i>
Chief Justice, Supreme Court	\$74,136
Associate Justice, Supreme Court	72,600
Chief Judge, Court of Appeals	70,284
Judge, Court of Appeals	68,748
Judge, Senior Regular Resident Superior Court	63,048
Judge, Superior Court	61,044
Chief Judge, District Court	51,396
Judge, District Court	49,428
District Attorney	56,784
Assistant District Attorney - an average of	36,732
Administrative Officer of the Courts	63,048
Assistant Administrative Officer of the Courts	51,396
Public Defender	56,784
Assistant Public Defender - an average of	36,732

If an acting senior regular resident superior court judge is appointed under the provisions of G.S. 7A-41, he shall receive the salary for Judge, Senior Regular Resident, Superior Court, until his temporary appointment is vacated, and the judge he replaces shall receive the salary indicated for Judge, Superior Court.

The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively,

in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed thirty-six thousand seven hundred thirty-two dollars (\$36,732) and the minimum salary of any assistant district attorney or assistant public defender is at least eighteen thousand five hundred fifty-two dollars (\$18,552).

Funds in the salary increase reserve fund created in Section 2 of this act, for salary increases and related employer's retirement and Social Security contributions, shall provide salary increases for permanent employees of the Judicial Department, except for those whose salaries are itemized in this act, on and after July 1, 1986, equal to the same amount as those authorized in Section 19 of this act for State employees subject to the Personnel Act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

—CLERKS OF COURT/SALARY INCREASES

Sec. 34. G.S. 7A-101 is amended, effective July 1, 1986, in the first paragraph by deleting the schedule of salaries for clerks of superior court and substituting the following schedule:

<i>"Population</i>	<i>Annual Salary</i>
Less than 49,999	\$33,072
50,000 to 99,999	38,040
100,000 to 199,999	43,008
200,000 and above	49,068"

—ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

Sec. 35. (a) G.S. 7A-102(c) is amended, effective July 1, 1986, in the first paragraph by deleting the schedule of minimum and maximum annual salary rates for assistant clerks and deputy clerks and substituting the following schedule:

<i>"Assistant Clerks</i>	<i>Annual Salary</i>
Minimum	\$16,788
Maximum	28,176
<i>Deputy Clerks</i>	
Minimum	13,152
Maximum	21,600"

(b) Nothing contained in this Part limits any other provisions of G.S. 7A-102(c).

—MAGISTRATES/SALARY INCREASES

Sec. 36. G.S. 7A-171.1(a)(1) is amended, effective July 1, 1986, by rewriting the table of salaries to read:

<i>"Number of prior years of service</i>	<i>Annual salary</i>
Less than 1	\$13,404
1 or more but less than 3	14,100
3 or more but less than 5	15,540
5 or more but less than 7	17,136
7 or more but less than 9	18,888

<i>"Number of prior years of service</i>	<i>Annual salary</i>
9 or more but less than 11	20,796
11 or more	22,896"

—ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

Sec. 37. (a) Salaries for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(b) The granting of the salary increases under this Part does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this Part.

(c) The salary range maximums for all employees shall be increased to accommodate the across-the-board salary increase provided by this Part so that every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if these salary increases had not been made.

(d) The salary increases provided in this act to be effective July 1, 1986, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to July 1, 1986. Section 201 of Chapter 479 of the 1985 Session Laws expires on June 30, 1986.

(e) Notwithstanding the provisions of Section 19.1 of Chapter 1137 of the 1979 Session Laws as amended by Chapter 1053 of the 1981 Session Laws, G.S. 115C-12(9)a., G.S. 115C-12(16), G.S. 126-7, or any other provision of law other than G.S. 20-187.3(a) or G.S. 7A-102(c), no employee or officer of the public school system shall receive an automatic increment and no State employee or officer shall receive a merit increment during the 1986-87 fiscal year, except as otherwise permitted by this act.

(f) The Director of the Budget shall transfer from the salary increase reserve fund in Section 2 of this act all funds necessary for the salary increases provided by Sections 19 through 36 of this act, including funds for the employer's retirement and Social Security contributions.

(g) Nothing in this Part authorizes the transfer of funds from the General Fund to the Highway Fund for salary increases.

—SALARY RELATED CONTRIBUTIONS/EMPLOYERS

Sec. 38. (a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical insurance, longevity pay, unemployment insurance,

accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability salary continuation benefits.

(b) The State employer contribution percentage rates of covered salaries budgeted for the retirement systems for fiscal year 1986-87 are (1) eleven and twenty hundredths percent (11.20%) - Teachers and State Employees; (2) sixteen and twenty hundredths percent (16.20%) - State Law Enforcement Officers; (3) thirty and sixty-seven hundredths percent (30.67%) - Consolidated Judicial Retirement System; and (4) thirty-five and thirty-two hundredths percent (35.32%) - Legislative Retirement. Each of the foregoing contribution rates includes ninety-five hundredths percent (0.95%) for hospital and medical benefits. The rate of sixteen and twenty hundredths percent (16.20%) for State Law Enforcement Officers includes the five percent (5%) applicable to the Supplemental Retirement Income Plan.

(c) The maximum annual employer contributions, payable monthly, by the State for fiscal year 1986-87 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (1) Medicare eligible employees and retirees - five hundred eighty-three dollars (\$583.00); and (2) Non-Medicare eligible employees and retirees - seven hundred sixty-six dollars (\$766.00).

—SUBSISTENCE ALLOWANCE INCREASES/STATE EMPLOYEES,
BOARDS, COMMISSIONS, LEGISLATORS

Sec. 39. (a) Effective January 1, 1987, G.S. 138-5 (a)(2)b. is amended by deleting "Forty-seven dollars (\$47.00)", and substituting "Fifty-two dollars (\$52.00)".

(b) Effective January 1, 1987, G.S. 138-6 (a)(3) is amended by deleting "forty-seven dollars (\$47.00)", and substituting "fifty-two dollars (\$52.00)" and by deleting "fifty-nine dollars (\$59.00)", and substituting "sixty-four dollars (\$64.00)".

Sec. 40. (a) G.S. 120-3.1(a)(3) is rewritten to read:

"(3) A subsistence allowance for meals and lodging at a daily rate equal to the maximum per diem rate for federal employees traveling to Raleigh, North Carolina, as set out at 51 Federal Register 19683 (May 30, 1986), while the General Assembly is in session and, except as otherwise provided in this subdivision, while the General Assembly is not in session when, with the approval of the Speaker of the House in the case of Representatives or the President Pro Tempore of the Senate in case of Senators, the member is:

- a. traveling as a representative of the General Assembly or of its committees or commissions, or
- b. otherwise in the service of the State.

A member who is authorized to travel, whether in or out of session, within the United States outside North Carolina, may elect to receive, in lieu of the amount provided in the preceding paragraph, a subsistence allowance of twenty dollars (\$20.00) a day for meals, plus actual expenses for lodging when evidenced by a receipt satisfactory to the Legislative Administrative Officer, the latter not to exceed the maximum per diem rate for federal employees traveling to the same place, as set out at 51 Federal Register 19677-19686 (May 30, 1986) and at 51 Federal Register 16885-16886 (May 7, 1986)."

(b) G.S. 120-4 is repealed.

(c) G.S. 120-32(8) is repealed.

(d) This section shall become effective upon the convening of the 1987 General Assembly.

—PERMIT CHIEF DEPUTY TO RECEIVE LONGEVITY PAY, MERIT PAY, VACATION LEAVE AND SICK LEAVE

Sec. 41. (a) G.S. 126-5(c2)(2) is recodified as G.S. 126-5(c)(4).

(b) This section shall become effective July 1, 1985.

—MISCELLANEOUS SALARY STEPS AND GRADES SET BY THE GENERAL ASSEMBLY

Sec. 42. Of the funds appropriated to the Department of Natural Resources and Community Development in Section 2 of this act, the sum of thirty-five thousand eight hundred eighty dollars (\$35,880) shall be used for salary, benefits, travel, and related expenses for a Resource Program Technician position, Grade 62, Step 1, to assist in administering the Agricultural Cost Share Program of the Division of Soil and Water Conservation.

Sec. 43. The position of Special Projects Attorney in the Criminal Division of the Department of Justice is established at Grade 84. The position shall be funded from the funds of the Department of Justice.

Sec. 44. Technical and Research positions covered by the State Personnel Act at the Mountain Horticultural Crops Station and Extension Center at Fletcher shall retain their existing classifications through the 1986-87 fiscal year.

Sec. 45. Section 76 of Chapter 479 of the 1985 Session Laws is reenacted to read:

"Sec. 76. North Carolina State University, from its current funding for Agricultural Research Programs, shall locate a burley tobacco research specialist and sufficient operating funds in Waynesville."

Sec. 46. The Project Director and seven evaluators in the outside evaluator program in the Department of Public Education shall be Grade 78, Step 5a.

Sec. 47. Notwithstanding the provisions of G.S. 126-4(1) the number of administrative law judges and employees of the Office of Administrative Hearings, their classifications, and their grades shall be as established by the General Assembly.

An administrative law judge may be removed from office only by the Director of the Office of Administrative Hearings and only for just cause, as provided in G.S. 7A-754. Otherwise, administrative law judges and employees of the Office of Administrative Hearings shall be entitled to all of the benefits and subject to all of the restrictions of Chapter 126 of the General Statutes in the same manner as all other State employees subject to that Chapter.

The number of administrative law judges and employees in the Office of Administrative Hearings and their classifications and grades are established as follows:

Classification	Grade	Number as of		
		7/1/86;	10/1/86;	1/1/87
Administrative Law Judges	83	6	7	8
Deputy Director	80	1	1	1

<i>Classification</i>	<i>Grade</i>	<i>Number as of</i>		
		<i>7/1/86;</i>	<i>10/1/86;</i>	<i>1/1/87</i>
Exec. Legal Specialist	80	1	1	1
Assistant Director	77	0	0	1
Executive Secretary	76	1	1	0
Personnel Supervisor	76	1	1	1
Personnel Analyst	74	2	2	2
Internal Auditor II	74	1	1	1
Codifier of Rules	74	1	1	0
Administrative Servs. Mgr.	73	1	1	1
Paralegal II	67	1	1	1
Publications Coordinator	67	1	1	1
Chief Hearings Clerk	67	1	1	1
Administrative Asst. III	67	1	1	1
Accounting Tech. V	67	1	1	1
Administrative Asst. II	65	1	1	1
Administrative Asst. I	63	1	1	1
Clerk/Typist V	61	3	3	4
Clerk V	61	1	0	0
Records Clerk IV	59	1	1	1
Word Processor IV	59	2	2	2
Clerk IV	59	1	1	1
Clerk/Receptionist III	57	0	1	1

The Director of the Office of Administrative Hearings shall also employ an Agency Legal Specialist III, Grade 77; an Administrative Officer II, Grade 70; a Paralegal III, Grade 70; and a Clerk/Typist V, Grade 61, to provide staff support to the Administrative Rules Review Commission. These employees shall be subject to the provisions of Chapter 126 of the General Statutes except that their number, classification, and grade shall be as established in this section.

Sec. 48. A person appointed as an administrative law judge shall be placed in that step of Grade 83 on the appropriate salary schedule as is determined by statute and regulations applicable to State employees generally.

Any person who was appointed as a hearing officer in the Office of Administrative Hearings prior to the effective date of this act shall be entitled to all of the benefits accruing to State employees subject to the Personnel Act under any statute or rule and such entitlement shall be retroactive to the date of appointment, except that this paragraph shall not be construed to apply to the Director.

—COST OF LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, JUDICIAL PERSONNEL, LEGISLATORS, LOCAL EMPLOYEES

Sec. 49. (a) G.S. 135-5 is amended by adding a new subsection (ll) to read:

“(ll) From and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1985, shall be increased by three and eight-tenths percent (3.8%) of the allowance payable on July 1, 1985, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1986, the retirement allowance to or

on account of beneficiaries whose retirement commenced after July 1, 1985, but before June 30, 1986, shall be increased by a prorated amount of three and eight-tenths percent (3.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1985, and June 30, 1986.”

(b) G.S. 135-65 is amended by adding a new subsection (g) to read:

“(g) From and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1985, shall be increased by three and eight-tenths percent (3.8%) of the allowance payable on July 1, 1985. Furthermore, from and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1985, but before June 30, 1986, shall be increased by a prorated amount of three and eight-tenths percent (3.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1985, and June 30, 1986.”

(c) Article 1A of Chapter 120 of the General Statutes is amended by adding a new section to read:

“§ 120-4.22A. *Post-retirement increases in allowances.*—(a) Retired members and beneficiaries of the Retirement System shall receive post-retirement increases in allowances on the same basis as post-retirement increases in allowances are provided to retired members and beneficiaries of the Teachers’ and State Employees’ Retirement System.

(b) In accordance with subsection (a) of this section, from and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1986, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers’ and State Employees’ Retirement System pursuant to the provisions of G.S. 135-5(ii) and (jj).”

(d) G.S. 128-27 is amended by adding a new subsection (bb) to read:

“(bb) From and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1985, shall be increased by three and eight-tenths percent (3.8%) of the allowance payable on July 1, 1985, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1985, but before June 30, 1986, shall be increased by a prorated amount of three and eight-tenths percent (3.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1985, and June 30, 1986.”

—BENEFIT ENHANCEMENTS/FIREMEN’S AND RESCUE SQUAD WORKERS’ PENSION FUND

Sec. 49.1. (a) Effective October 1, 1986, Chapter 118 of the General Statutes is amended by adding a new section to read:

“§ 118-41.1. *Additional retroactive membership.*—(a) Any fireman or rescue squad worker who is now eligible and is a member of a fire department or rescue squad chartered by the State of North Carolina and who has not previously elected to become a member may make application through the board of trustees for membership in the fund on or before

March 31, 1987. The person shall make a lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making the lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for this prior service upon lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible.

(b) Effective April 1, 1987, any fireman or rescue squad worker who has not reached his thirty-fifth birthday who is eligible and who has not previously elected to become a member may make application through the board of trustees for membership in the fund at any time. The person shall make a lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate to be set by the board of trustees, for each year of his retroactive payments. Upon making this lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who has not reached his thirty-fifth birthday who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for such prior service upon lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible, plus interest at an annual rate to be set by the board of trustees, for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible."

(b) G.S. 118-42 is amended by deleting the phrase "seventy-five dollars (\$75.00) per month" wherever found and substituting the phrase "one hundred dollars (\$100.00) per month".

—TEACHER AND STATE EMPLOYEE DISABILITY BENEFITS STUDY

Sec. 50. The Board of Trustees of the Teachers' and State Employees' Retirement System shall begin a study on the possibility of replacing disability retirement benefits and disability salary continuation benefits with a comprehensive short-term and long-term disability income plan for teachers and State employees. Such study shall include, but not be limited to, a minimum and maximum level of continued disability income protection, a coordination or integration of disability benefits available from all sources, required waiting periods before the payment of benefits, an appropriate recognition of all types of disabilities, an appropriate level of rehabilitation benefits for returning disabled employees to the work force, the effects of gainful employment upon benefit entitlement, the accrual of retirement service credits during periods of disability, cost

effects upon the State Retirement Systems, and the cost and methods of financing for such a comprehensive disability income plan. The Board of Trustees shall make a progress report on the study to the President of the Senate, the Speaker of the House of Representatives, the Chairmen of the Committee on Employee Hospital and Medical Benefits, the Chairmen of the Committees on Pensions and Retirement of the Senate and House of Representatives, and to the Fiscal Research Division of the General Assembly upon the convening of the 1987 General Assembly.

—STATE LAW ENFORCEMENT OFFICERS/SEPARATION ALLOWANCES

Sec. 51. G.S. 143-166.41(a)(3) is amended by adding a sentence to read: "Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance."

Sec. 52. G.S. 143-166.41(b) is amended by deleting the phrase "seventy-five percent (75%)" and substituting the phrase "fifty percent (50%)".

PART VIII.—PUBLIC SCHOOLS

—BASIC EDUCATION PROGRAM

Sec. 53. Section 55(a) of Chapter 479 of the 1985 Session Laws is amended by rewriting the table labelled "1986-87" to read:

"1986-87"

<i>Description</i>	<i>Continuation</i>	<i>Expansion</i>	<i>Total</i>
(1) Finance Officers (Positions)	\$ -	\$ 3,194,583 (100)	\$ 3,194,583 (100)
(2) Transportation Workers			
a. Bus Drivers	250,000 (100)	-	250,000 (100)
b. Mechanics	137,879 (8)	-	137,879 (8)
(3) Teachers	-	37,191,794 (1,510)	37,191,794 (1,510)
(4) Instructional Aides	2,152,714 (230)	-	2,152,714 (230)
(5) Counselors	-	18,152,811 (706.5)	18,152,811 (706.5)
(6) Instructional Support	-	5,138,800 (200)	5,138,000 (200)
(7) Assistant Principals	3,305,983 (116)	1,477,476 (52)	4,783,459 (168)
(8) Handicapped	1,031,556	516,808	1,548,364

<i>Description</i>	<i>Continuation</i>	<i>Expansion</i>	<i>Total</i>
(9) Prior Year Funding as an Option	-	6,412,809 (314)	6,412,809 (314)
(10) Average Daily Membership Contingency Fund	-	8,000,000	8,000,000
(11) Summer School	-	10,500,000	10,500,000
(12) Professional Development	-	5,345,000	5,345,000
a. Finance Officers		(100,000)	
b. Computer Training		(1,000,000)	
c. Certified Personnel		(2,000,000)	
d. Center for the Advancement of Teaching at Western Carolina Univ.		(2,245,000)	
(13) Instructional Supplies	199,934	-	199,934
(14) Textbooks	339,035	6,579,740	6,918,775
(15) a. Equipment- Vocational	28,780	2,544,195	2,572,975
b. Equipment- Math/Science	53,900	5,197,668	5,251,568
c. Equipment- Computers	-	8,610,980	8,610,980
TOTAL	\$7,499,781	\$118,862,664	\$126,362,445
Positions	(454)	(2,882.5)	(3,336.5)''.

—TEACHER EFFECTIVENESS PROGRAM

Sec. 54. The Expansion Budget funds appropriated to the Department of Public Education in Section 2 of this act for Teacher Effectiveness Training shall be used to provide a one-time stipend of two hundred fifty dollars (\$250.00) per person to teachers in local school administrative units outside the 16 Career Ladder Pilots who were required by local and/or State mandate to successfully complete the 30 hours of Teacher Effectiveness Training prior to June 30, 1987, provided those teachers have not received a stipend as provided by the provisions of Chapter 479 of the 1985 Session Laws.

Any remaining funds shall be used to provide a one-time stipend of two hundred fifty dollars (\$250.00) to those teachers who successfully complete the 30 hours of Teacher Effectiveness Training in the nine local school administrative units participating in the Outside Evaluator Pilot Program.

The State Board shall conduct a survey of teachers who have successfully completed the 30 hours of Teacher Effectiveness Training in the 125 local school administrative units and have not received a stipend of two hundred fifty dollars (\$250.00). The survey results shall be reported through the Legislative Liaison Office to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division before the convening of the 1987 General Assembly.

Any of these funds not needed for this purpose may be used by the State Board of Education to compensate teachers who are not in the Performance Appraisal Program pilot program who successfully complete the Teacher Effectiveness Training prior to June 30, 1987. The State Board shall devise a plan for compensating these teachers and shall submit the plan to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division before the convening of the 1987 General Assembly.

—SUBSTITUTE TEACHER PAY

Sec. 55. Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of eight hundred thousand dollars (\$800,000) shall be used to pay substitute teachers who are currently or previously certified as teachers fifty-two dollars (\$52.00) per day, regardless of how many consecutive days they teach.

Sec. 56. Effective June 30, 1986, Section 34 of Chapter 479 of the 1985 Session Laws is repealed.

—PAY FOR TEACHER WITH MASTER'S DEGREE

Sec. 57. (a) Section 19.1(d) of Chapter 1137 of the 1979 Session Laws (Second Session 1980), as rewritten by Chapter 1053 of the 1981 Session Laws, and Section 46 of Chapter 757 of the 1985 Session Laws is further amended by rewriting proviso (1) to read:

“(1) in the case of a teacher who was awarded a higher teaching certificate from September 1, 1980, through June 30, 1986, as a result of a receipt of a master's degree, such person shall be entitled to credit for all teaching experience earned previously, recognizable under State Board of Education regulations, in determining placement on the salary schedule;”.

(b) Of the funds appropriated from the General Fund to the Department of Public Education in Section 2 of this act, the sum of one million fifty-eight thousand five hundred twenty-seven dollars (\$1,058,527) shall be used to implement this section.

—TEACHER AIDES/WORKWEEK AND COMPENSATION

Sec. 58. G.S. 115C-47 is amended by adding a new subdivision to read:

“(30) Local boards of education shall determine the hours of employment for teacher aides. The Legislative Commission of Salary Schedules for Public School Employees shall include in its report to the General Assembly recommendations regarding hours of employment for teacher aides and other employees.”

—SCHOOL EMPLOYEE SALARY COMMISSION

Sec. 59. (a) There is established a Legislative Commission on Salary Schedules for Public School Employees. The Commission shall consist of five members of the Senate appointed by the President of the Senate, one public member appointed by the President of the Senate, five members of the House of Representatives appointed by the Speaker of the House of Representatives, one public member appointed by the Speaker of the House of Representatives, and the Chairman of the State Board of Education. The Chairman of the State Board of Education shall involve the controller and the Superintendent of Public Instruction in the work of the Commission.

The President of the Senate and the Speaker of the House of Representatives shall each designate a cochairman of the Commission.

The Commission shall:

(1) undertake a comparative study of the current salary structure now used for certified and noncertified public school employees, including employees of schools operated by the Department of Human Resources and the Department of Correction;

(2) develop a new, comprehensive schedule for all public school employees that will be used as the universal schedule for salary administration, and that provides substantial opportunity for professional achievement and compensation and recognizes experience, education, and other factors that must be considered;

(3) make a final report by March 1, 1987, to the State Board of Education, the Lieutenant Governor, the Speaker of the House of Representatives, and the Fiscal Research Division on the proposed schedule for all public school employees;

(4) recommend a plan for continuing review of and adjustments to the salary schedules.

The Commission may employ staff to undertake or direct the study and may contract for the study to be done. The Commission shall terminate upon submission of its final report.

(b) The Legislative Services Commission may allocate up to one hundred thousand dollars (\$100,000) for the work of the Legislative Commission on Salary Schedules for Public School Employees.

—CAREER TEACHER CLARIFICATION

Sec. 60. (a) G.S. 115C-325(p) is rewritten to read:

“(p) Section Applicable to Certain Institutions. Notwithstanding any law or regulation to the contrary and notwithstanding the teacher’s salary schedule as adopted by the State Board of Education, this section shall apply to all persons defined as teachers by this section who serve as teachers in the schools and institutions of the Departments of Human Resources and Correction regardless of the age of the students they teach and regardless of whether they accept noninstructional assignments.”

(b) This section shall become effective July 1, 1984.

—OUTSIDE EVALUATOR PROJECT

Sec. 61. The last sentence of the second paragraph of G.S. 115C-362 is rewritten to read:

“The evaluators shall be selected and trained by the local boards of education and the Department of Public Instruction.”

Sec. 62. The third paragraph of G.S. 115C-362 is amended by adding a new sentence at the end to read:

“Evaluations shall begin January 1, 1987.”

—TEACHER ENHANCEMENT PROGRAM

Sec. 63. (a) Subchapter V of Chapter 115C of the General Statutes is amended by adding a new Article to read:

“Article 24C.

“Teacher Enhancement Program.

“Part 1. Office of Teacher Recruitment.

“§ 115C-363.15. *Office of Teacher Recruitment established; purpose.*—There is established in the Department of Public Instruction an Office of Teacher Recruitment. The purposes of the Office are to identify which local school administrative units need teachers and the subject areas in which they need them and to coordinate and administer a comprehensive teacher recruitment effort. The Office shall administer its programs so as to encourage members of minority groups and individuals who may not otherwise consider undertaking or continuing a career in teaching to go into and remain in the teaching profession.

“§ 115C-363.16. *Development and analysis of data on teacher supply and demand.*—The Office of Teacher Recruitment shall develop and analyze data on the current and projected subject area and geographical area need for teachers. The Director of the Office shall appoint a Teacher Supply and Demand Coordinator to carry out this function.

“§ 115C-363.17. *Recruitment of prospective teachers in the high schools.*—(a) The Office of Teacher Recruitment shall coordinate a High School Teacher Recruitment Program. The Director of the Office shall appoint a High School Recruitment Coordinator to carry out this function.

(b) A teacher recruitment program shall be located in each high school in the State. The purpose of these programs is to improve the image of the teaching profession, to provide information about teaching as a profession, and to formally identify and attract talented high school students into the teaching profession.

(c) The principal of each high school in the State shall select a teacher to serve as the teacher recruiting officer in that school. The teacher recruiting officer shall receive an annual stipend for performing this function.

(d) The Office of Teacher Recruitment shall sponsor at least one meeting each year to bring the teacher recruiting officers together for training and for sharing ideas. The Office shall also produce program guides, information about teaching as a career, and other written materials for the use of the teacher recruiting officers.

“§ 115C-363.18. *Coordination of efforts with the business community and major education organizations.*—(a) The Office of Teacher Recruitment shall encourage the business community to work cooperatively with local schools to develop recruiting programs aimed at attracting and retaining capable teachers. The Office shall encourage the business community to assist in a variety of ways including the creation of summer employment opportunities for teachers, placement efforts aimed at finding suitable employment for spouses of teachers, and working with school administrators to develop teacher recruiting programs.

(b) The Office of Teacher Recruitment shall encourage major education associations to coordinate a long-range program aimed at promoting teaching as a career. The Office shall encourage these associations to assist in identifying local resources, coordinating local activities and events, and producing material aimed at promoting teaching as a career choice.

“§ 115C-363.19. *Tuition grants for certain areas of need.*—(a) The Office of Teacher Recruitment shall administer a Tuition Grant Program. The Program shall provide scholarship loans to individuals with skills in a subject area of high need who hold college degrees but do not have teacher certification, and to certified teachers who agree to retraining for certification in subject areas of high need.

(b) A recipient of a tuition scholarship loan shall receive a grant toward the actual amount of his tuition cost, up to one thousand dollars (\$1,000).

(c) Tuition scholarship loans shall be made to individuals who agree to become certified in a subject of high need and who agree to work in a region or local school administrative unit of need. Recipients shall be selected by the Superintendent of Public Instruction.

(d) All scholarship loans shall be evidenced by notes made payable to the State Board of Education that bear interest at the rate of ten percent (10%) per year beginning September 1 after the recipient completes his course work for certification or after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the State Board.

(e) The State Board shall forgive the loan if, within four years after completing the course work, the recipient teaches for two years in the subject area and the geographical area agreed upon when the loan was made.

(f) All funds appropriated to or otherwise received by the Tuition Grant Program, all funds received as repayment of scholarship loans, and all interest earned on these funds shall be placed in a revolving fund. This revolving fund may be used only for scholarship loans granted under the Tuition Grant Program.

“§ 115C-363.20. *Teacher Aide and Substitute Teacher Retraining Program.*—(a) The Office of Teacher Recruitment shall administer a Teacher Aide and Substitute Teacher Retraining Program. The program shall provide one-year scholarship loans to currently employed teacher aides and substitute teachers who hold college degrees and who agree to retraining for certification in subject areas of high need.

(b) A recipient of a scholarship loan under this program shall receive the actual amount of the tuition cost up to one thousand dollars (\$1,000) and the minimum salary for a teacher aide on the State salary schedule.

(c) Retraining scholarship loans shall be made to individuals who:

- (1) Are sponsored by a local school administrative unit by which they are currently employed as a teacher aide or substitute teacher and which agrees to employ them as a teacher after they are retrained;
- (2) Agree to enter a college program full time and secure certification in a specified area; and
- (3) Agree to accept a teaching position in the local school administrative unit that sponsored them.

Recipients shall be selected by the Superintendent of Public Instruction.

(d) All retraining scholarship loans shall be evidenced by notes made payable to the State Board of Education that bear interest at the rate of

ten percent (10%) per year beginning September 1 after the recipient completes his course work for certification or after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the State Board.

(e) The State Board shall forgive the loan, if within four years after completing the course work the recipient teaches for two years in the subject area and the local school administrative unit agreed upon when the loan was made.

(f) All funds appropriated to or otherwise received by the Teacher Aide and Substitute Teacher Retraining Program, all funds received as repayment of scholarship loans, and all interest earned on these funds shall be placed in a revolving fund and may be used only for scholarship loans granted under the Teacher Aide and Substitute Teacher Retraining Program.

“§ 115C-363.21. *Teacher Incentive Program.*—(a) The Office of Teacher Recruitment shall administer a Teacher Incentive Program. The program shall be used to provide a one-time incentive of three thousand dollars (\$3,000) to former teachers who have achieved career status but have been out of the teaching field for at least three years or to provide actual moving costs of up to three thousand dollars (\$3,000) for teachers not currently employed by a local school administrative unit in North Carolina.

(b) An applicant for an incentive grant shall agree to teach for at least two years in a specific subject area, a specific geographic area, or both. Recipients shall be selected by the Superintendent of Public Instruction.

(c) All grants shall be evidenced by notes made payable to the State Board of Education. If the recipient fails to abide by the agreement, he shall repay the amount of the grant and ten percent (10%) interest, accruing from the time the agreement is breached.

(d) All funds appropriated to or otherwise received by the Teacher Incentive Program, all funds received as repayment of the grants, and all interest earned on these funds shall be placed in a revolving fund and may be used only for incentive grants under the Teacher Incentive Program.

“Part 2. North Carolina Teaching Fellows Commission.

“§ 115C-363.22. *North Carolina Teaching Fellows Commission established.*—There is established the North Carolina Teaching Fellows Commission. This Commission shall exercise its powers and functions independently of the State Board of Education and the Department of Public Instruction. The Public School Forum of North Carolina, Inc., shall provide staff and office space to the Commission. Staff to the Commission are not State employees.

“§ 115C-363.23. *Membership.*—(a) The Commission shall consist of 11 nonlegislative members as follows:

- (1) The Chairman of the State Board of Education, or his designee;
- (2) The Lieutenant Governor, or his designee;
- (3) Three persons appointed by the Governor;

- (4) Three persons appointed by the General Assembly on the recommendation of the President of the Senate, as provided in G.S. 120-121; and
 - (5) Three persons appointed by the General Assembly on the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (b) Each of the appointing entities shall seek to achieve a balanced membership representing, to the maximum extent possible, the State as a whole. The Commission members shall be chosen from among individuals who have demonstrated a commitment to education.
- (c) Commission members shall be appointed for four-year terms, with the first appointments to expire July 1, 1990.
- (d) In the event a vacancy occurs for any reason, the vacancy shall be filled by appointment by the entity that made the appointment, except that vacancies in appointments by the General Assembly shall be filled under G.S. 120-122. The new appointee shall serve for the remainder of the unexpired term.
- (e) The Lieutenant Governor or his designee shall serve as chairman.
- (f) Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with Chapter 138 of the General Statutes.
- (g) The Commission shall meet regularly at times and places the chairman deems necessary.
- “§ 115C-363.23A. *Teaching Fellows Program established; administration.*—(a) A Teaching Fellows Program shall be administered by the North Carolina Teaching Fellows Commission. The Teaching Fellows Program shall be used to provide a four-year scholarship loan of five thousand dollars (\$5,000) per year to North Carolina high school seniors interested in preparing to teach in the public schools of the State. The Commission shall adopt very stringent standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the best high school seniors receive them.
- (b) The Commission shall administer the program in cooperation with teacher training institutions selected by the Commission. Teaching Fellows should be exposed to a range of extra-curricular activities while in college. These activities should be geared to installing a strong motivation not only to remain in teaching but to provide leadership for tomorrow's schools.
- (c) The Commission shall form regional review committees to assist it in identifying the best high school seniors for the program. The Commission and the review committees shall make an effort to identify and encourage minority students and students who may not otherwise consider a career in teaching to enter the program.
- (d) All scholarship loans shall be evidenced by notes made payable to the Commission that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Commission.

(e) The Commission shall forgive the loan if, within seven years after graduation, the recipient teaches for four years at a North Carolina public school or at a school operated by the United States government in North Carolina.

(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds, shall be placed in a revolving fund. This revolving fund may be used only for scholarship loans granted under the Teaching Fellows Program.

"§ 115C-363.24. *Teaching Grant Program for College Juniors.*—(a) A Teaching Grant Program for College Juniors shall be administered by the North Carolina Teaching Fellows Commission. The Teaching Grant Program for Prospective Teachers shall be used to provide a two-year scholarship loan of four thousand dollars (\$4,000) per year to 200 North Carolina residents who are college juniors or community college graduates and who are interested in preparing to teach in the public schools of the State. The Commission shall adopt standards to ensure that these scholarship loans are awarded only to students who meet scholastic standards set by the Commission and who are majoring in a subject area of high need and who agree to teach in a specified region or local school administrative unit of the State.

(b) All scholarship loans shall be evidenced by notes made payable to the Commission that bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Commission.

(c) The Commission shall forgive the loan if, within five years after graduation, the recipient teaches for three years in the subject area and the geographical area agreed upon when the scholarship loan was made.

(d) All funds appropriated to or otherwise received by the Teaching Grant Program for College Juniors for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds shall be placed in a revolving fund. This revolving fund may be used only for scholarship loans granted under the Teaching Grant Program for College Juniors."

(b) Effective July 1, 1987, Article 32A of Chapter 115C of the General Statutes and Section 10 of Chapter 1034 of the 1983 Session Laws are repealed; provided, however, this subsection does not apply to individuals who have received commitments for scholarship loans under these statutes prior to July 1, 1987, and who have not completed the program or to individuals who have not fulfilled their obligations to teach or to repay their notes by July 1, 1987.

Effective July 1, 1987, all funds not needed in the Scholarship Loan Fund for Prospective Teachers for individuals who received commitments for scholarship loans under Article 32A of Chapter 115C of the General Statutes or Section 10 of Chapter 1034 of the 1983 Session Laws are transferred to the Teaching Fellows Program.

(c) Effective July 1, 1987, G.S. 143-47.21 is amended by deleting the language “, or leading to graduation as mathematicians or scientists”; provided, however, this subsection does not apply to individuals who received commitments for loans prior to July 1, 1987, and who have not completed the program.

(d) Of the funds appropriated to the Department of Public Education in Section 2 of this act the sum of five hundred thousand dollars (\$500,000) shall be used for the Office of Teacher Recruitment established in subsection (a) of this section.

Funds are appropriated in Section 2 of this act to the Public School Forum of North Carolina, Inc., in the sum of three hundred seventy-five thousand dollars (\$375,000) to provide staff and office space to the North Carolina Teaching Fellows Commission and for the other activities of the Forum for the benefit on public education in the State of North Carolina.

(e) G.S. 105A-2(1)(o) is amended by adding before the final period: “and the scholarship loan and grant programs enabled by Chapter 115C, Article 24C, Part 1”.

(f) G.S. 105A-2(1) is amended by adding a new subpart to read:

“q. The North Carolina Teaching Fellows Commission in the performance of its duties pursuant to Chapter 115C, Article 24C, Part 2.”

(g) Scholarship loans and grants shall be made pursuant to the scholarship loan and grant programs established in subsection (a) of this section beginning with the 1987-88 school year.

(h) G.S. 120-123 is amended by adding a new subdivision to read:

“(45a) The North Carolina Teaching Fellows Commission, as established by G.S. 115C-363.22.”

(i) Subsections (a), (e), (f), (g), and (h) of this section are effective upon ratification.

—SCHOOL FINANCE OFFICERS

Sec. 64. Section 55(b)(1)a. of Chapter 479 of the 1985 Session Laws is amended by deleting the last two sentences and substituting the following:

“The amount allotted to each county for a school finance officer shall be determined according to the allotment schedule adopted by the State Board of Education. This allotment schedule shall be based on the total average daily membership in the county and the certificate level, as determined by the State Board, of the school finance officer.

If a county contains more than one local school administrative unit, the State Board shall determine what percentage of the total county average daily membership is located within each local school administrative unit. To determine the amount that shall be allocated for a school unit that employs a school finance officer I, the State Board shall apply that school unit's percentage of total county average daily membership to the amount the allotment schedule would provide for a school finance officer I, based on the total county average daily membership. To determine the amount that shall be allocated for a school unit that employs a school finance officer II, the State Board shall apply that school unit's percentage of total county average daily membership to the amount the allotment schedule would provide for a school finance officer II, based on the total county average daily membership. Funds allocated for all school units within a

county may, however, be combined in a manner agreed upon by all school units in a county.”

Sec. 65. Section 55(b)(1)b. of Chapter 479 of the 1985 Session Laws is repealed.

—SCHOOL HEALTH COORDINATOR FUNDS

Sec. 66. (a) Of the funds appropriated in Section 2 of this act to the Department of Public Education, the sum of one hundred eleven thousand eight hundred thirteen dollars (\$111,813) shall be used for salaries, benefits, and related expenses for three additional health coordinator positions for the public schools.

(b) The State Board of Education shall designate an impartial panel to review health education plans to be submitted by local school administrative units. Based upon the panel's evaluation of the plans, the State Board of Education shall allocate the funds for the additional health coordinators to three selected local school administrative units, one within each of the three educational districts demonstrating the greatest need for them. The State Board of Education may not, however, allocate funds for an additional health coordinator to any local school administrative unit that is already being served by a State-funded health coordinator.

—VOCATIONAL EDUCATION

Sec. 67. (a) Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of seven million three hundred five thousand one hundred dollars (\$7,305,100) may be used by the State Board of Education to increase the regular allotments to local school administrative units for vocational education in grades 7 through 12. These funds include the following:

(1) Line item 6310 - three million nine hundred eight-five thousand forty-five dollars (\$3,985,045);

(2) Line item 6301 - seven hundred fifty-six thousand dollars (\$756,000);

(3) Line item 6324 - two million five hundred forty-four thousand one hundred ninety-five dollars (\$2,544,195).

—LOCAL SCHOOLS ADD PROGRAM GRANTS

Sec. 68. Funds in the amount of two hundred fifty thousand dollars (\$250,000) appropriated to the Department of Public Education in Section 2 of this act for local school administrative units for Alcohol and Drug Defense Programs shall be used to establish model programs. These funds may not be allocated by the State Board of Education on the basis of average daily membership but shall be allocated by a competitive grant process. Grants shall be no more than ten thousand dollars (\$10,000) for any one local school administrative unit. The Department of Public Education shall report on which school units receive these grants and how much they receive, by February 1, 1987, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—JOB PLACEMENT CENTER FUNDS

Sec. 69. Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of four million four hundred thirty-two thousand two hundred fifteen dollars (\$4,432,215) shall be used

for job placement centers. The funds shall be allocated so as to provide one-half a counsellor position in each high school in the State.

—DROPOUT PREVENTION FUNDS

Sec. 70. Funds in the amount of thirteen million seven hundred twenty thousand five hundred ninety-six dollars (\$13,720,596) are appropriated to the Department of Public Education in Section 2 of this act for dropout prevention in high schools, middle schools, and junior high schools. Of these funds:

(1) The sum of one hundred thirty-five thousand dollars (\$135,000) shall be allocated to provide forty-five thousand dollars (\$45,000) each to the Haywood, Granville, and Wake County Boards of Education to continue dropout programs in their respective local school administrative units that were previously funded by grants from the Ford Foundation.

(2) The sum of two hundred fifteen thousand dollars (\$215,000) shall be allocated to the Department of Public Instruction to administer the dropout program provided that the State Board of Education develops performance standards including the correlates of effective dropout prevention programs and establishes indicators for measuring the effectiveness of programs. The Department of Public Instruction, Liaison Office, shall report on these standards and indicators, by May 1, 1987, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(3) Within funds available, the remainder shall be used to provide an in-school suspension teacher to high schools, middle schools, and junior high schools with a teacher or counselor to identify the students likely to drop out and to provide special alternative instructional programs for these high risk students.

These funds may not be used to supplant dropout prevention programs funded from other State or federal sources other than the Job Training Partnership Act.

—PHYSICAL EDUCATION PROGRAM STUDY

Sec. 71. The State Board of Education shall study elementary and secondary school physical education programs in North Carolina. The study shall include:

(1) the fitness needs of students in kindergarten through the twelfth grade;

(2) the extent to which existing programs meet these needs;

(3) changes needed to improve the public school programs, including (i) pre-school and in-service preparation of teachers, (ii) the appropriate ratio of students to physical education teachers in each grade level, (iii) facility, equipment, and instructional material needs, (iv) resources for statewide physical fitness testing of students, and (v) high school healthful living program graduation requirements;

(4) the relationship of any needed changes to the Basic Education Program; and

(5) the costs associated with any necessary program improvements.

The State Board shall report its findings, by February 1, 1987, to the chairman of the Senate Appropriations Committee, the Senate Base Budget Committee, the House Appropriations Expansion Budget

Committee, and the House Appropriations Base Budget Committee and to the Fiscal Research Division.

—STUDY ON TEXTBOOKS FOR VISUALLY IMPAIRED

Sec. 72. The State Board of Education shall study the most cost-effective way to provide textbooks to students who are visually impaired. The State Board of Education shall report the results of its study and its recommendations, by March 1, 1987, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—BOOKS FOR HANDICAPPED STUDENTS

Sec. 73. Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of three hundred thousand dollars (\$300,000) shall be used to purchase modified textbooks (braille, large-print, audio cassettes) for handicapped children. The Department of Public Instruction shall have the authority to recall the modified textbooks when the textbooks are no longer in use by handicapped children in the local school systems for redistribution. The Department of Public Instruction shall report on how these funds were spent, by March 1, 1987, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—STATEWIDE TESTING PROGRAM/TESTING COMMISSION

Sec. 74. (a) Articles 11 and 12 of Chapter 115C of the General Statutes are repealed and replaced by a new Article to read:

“Article 11A.

“Testing.

“Part 1. Commission on Testing.

“§ 115C-174.1. *Commission established; purpose.*—There is established a Commission on Testing for the purpose of advising the State Board of Education on all matters pertaining to tests and testing from kindergarten through the 12th grades. This Commission shall assume all of the functions previously performed by the Annual Testing Commission and by the Competency Testing Commission and advise the State Board of Education on matters pertaining to the selection, development, and utilization of achievement tests designed to measure student achievement in the areas specified in the Basic Education Program.

“§ 115C-174.2. *Membership of Commission.*—(a) The Governor shall appoint the members of the Commission.

(b) The Commission shall be composed of 17 voting members, of whom five shall be classroom teachers currently employed to teach in grades 1, 2, 3, 6, and 8; four shall be currently employed high school teachers, one each from the areas of English, mathematics, social studies, and science; two shall be teachers of exceptional children, one of the educable mentally handicapped and the other of the learning disabled; one shall be a test psychometrician; one shall be a test coordinator; one shall be a principal; one shall be a superintendent; and two shall be professional educators from the faculties of institutions of higher education in the State.

(c) The Superintendent of Public Instruction, or his designee, shall serve as an ex officio, nonvoting member of the Commission on Testing.

“§ 115C-174.3. *Term of office.*—The regular term of office for all members shall be four years except that, of the initial appointments under this act, half shall be appointed for a term of two years and the remainder for a term of four years. All subsequent appointments shall be for a term of four years.

“§ 115C-174.4. *Chairman.*—The superintendent named to the Commission shall serve as chairman of the Commission. The Commission shall elect from its membership a vice-chairman to serve in the absence of the chairman.

“§ 115C-174.5. *Compensation of members.*—The members shall be entitled to compensation for each day spent on the work of the Commission as approved by the State Board of Education and receive reimbursement for travel and subsistence expenses incurred in the performance of their duties at rates specified in G.S. 138-5 or 138-6, whichever is applicable to the individual member. All currently employed teachers serving on the Commission shall receive full pay for each day spent on the work of the Commission without any reduction in salary for a substitute teacher's pay.

“§ 115C-174.6. *Duties of Commission.*—(a) The members of the Commission shall secure copies of tests designed to measure academic achievement. Each of these tests shall be examined carefully and the Commission shall file with the State Board of Education a written evaluation of each of these tests along with appropriate recommendations. In evaluating a test, the Commission shall give special consideration to the suitability of a test to the instructional level or special education program for which it is intended to be used and the validity of the test.

(b) The State Board of Education may call on the Commission for advice and assistance in the development of new tests designed for use in the Statewide Testing Program, if the Board has determined that appropriate tests are not available for purchase.

(c) The State Board of Education may call on the Commission to make recommendations on minimum passing scores whenever necessary.

(d) The State Board of Education may call on the Commission to conduct public forums on testing issues and to report its findings to the Board.

“Part 2. Statewide Testing Program.

“§ 115C-174.10. *Purposes of the Statewide Testing Program.*—The three testing programs in this Article have three purposes: (i) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society; (ii) to provide a means of identifying strengths and weaknesses in the education process; and (iii) to establish additional means for making the education system accountable to the public for results.

“§ 115C-174.11. *Components of the testing program.*—(a) Annual Testing Program. In order to assess the effectiveness of the educational process, and to ensure that each pupil receives the maximum educational benefit from the educational process, the State Board of Education shall implement an annual statewide testing program in basic subjects. It is the purpose of this testing program to help local school systems and teachers

identify and correct student needs in basic skills rather than to provide a tool for comparison of individual students or to evaluate teacher performance. The annual testing program shall be conducted each school year for the first, second, third, sixth and eighth grades. Students in these grade levels who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing program if special testing procedures are required for testing such students. The State Board of Education shall select annually the type or types of tests to be used in the testing program. If norm-referenced tests are used in the first or second grade, the tests shall not be used as primary, definitive, or exclusive criteria to make decisions with respect to grade promotion or placement in special education programs.

(b) Competency Testing Program.

- (1) The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess the skills and knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship.
- (2) The tests shall be administered annually to all tenth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the tenth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the tenth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.
- (3) The State Board of Education may develop and validate alternate means and standards for demonstrating minimum competence. These standards, which must be more difficult than the tests adopted pursuant to subdivision (1) of this subsection, may be passed by students in lieu of the testing requirement of subdivision (2) of this subsection.
- (4) Funds appropriated for the purpose of remediation support for students who fail the high school competency test shall be distributed in accordance with rules promulgated by the State Board of Education. The State Board of Education shall allocate remediation funds to institutions administered by the Department of Human Resources on the same basis as funds allocated to other local education agencies.

(c) Competency Based Curriculum Testing. In order to provide achievement information and educational accountability as part of the Basic Education Program, the State Board of Education may acquire, in the most cost-efficient manner, achievement tests and test information to evaluate achievement in those grades and courses as specified in the Basic Education Program. Information from these tests may be used as one

criterion by teachers and local school personnel in arriving at student grades and in making administrative decisions.

“§ 115C-174.12. *Responsibilities of agencies.*—(a) The State Board of Education shall review the recommendations of the Commission on Testing and select the tests that it believes will provide the best measures of the levels of academic achievement attained by students in various subject areas. The State Board of Education shall also establish policies and guidelines necessary for carrying out the provisions of this Article.

(b) The Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for the statewide administration of the testing program provided by this Article and for providing necessary staff services to the Commission.

(c) Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units shall use the annual and competency testing programs to fulfill the purposes set out in this Article. Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs further.

“§ 115C-174.13. *Public records exemption.*—Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this Article is not a public record within the meaning of G.S. 132-1 and shall not be made public by any person, except as permitted under the provisions of the Family Educational and Privacy Rights Act of 1974, 20 U.S.C. 1232g.

“§ 115C-174.14. *Provisions for nonpublic schools.*—All components of the Statewide Testing Program shall be made available to nonpublic schools in the manner prescribed in G.S. 115C-551 and G.S. 115C-559.”

(b) This section is effective upon ratification.

—PRESCHOOL SCREENING/EVALUATIONS PILOT PROGRAMS

Sec. 75. The Department of Public Instruction shall assist, where necessary, a local school administrative unit in designing a preschool screening/evaluations pilot program. These programs shall primarily focus on a developmental evaluation during the kindergarten year to determine the appropriate developmental age and school placement for each child. They shall also include an early intervention phase to address the needs of children identified as developmentally immature or at risk.

Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of two hundred eighty-seven thousand dollars (\$287,000) shall be used to establish preschool screening/evaluations pilot programs in 15 local school administrative units selected by the State Board of Education.

The Department of Public Education shall report on the pilot programs, before February 1, 1987, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—DELAY CHANGE IN THE LAW REGARDING THE COST ALLOCATION OF PLACEMENT OF EXCEPTIONAL CHILDREN

Sec. 76. (a) Section 2 of Chapter 465 of the 1985 Session Laws is rewritten to read:

“Sec. 2. This act shall become effective July 1, 1987.”

(b) This section shall become effective June 30, 1986.

—CONSOLIDATION OF STAFF DEVELOPMENT APPROPRIATIONS

Sec. 77. Funds appropriated in Section 2 of this act in line items 13510-1817-6689 - Computer Training for Certified Personnel, 13510-1817-6659 - Staff Development K-12, 13510-1817-6688 - Certified Personnel; and 13510-1817-6679 - Quality Assurance shall be combined. Twenty-five percent (25%) of these funds shall be allocated equally among the local school administrative units; seventy-five percent (75%) shall be allocated on the basis of average daily membership. These funds shall be used by local school administrative units according to staff development policies adopted by the State Board of Education.

—ALLOCATION OF FUNDS ON PRIOR YEAR OR PROJECTED ADM

Sec. 78. The last sentence of G.S. 115C-430 is amended by deleting the word "projected".

—CENTRAL PAYROLL FUNDS SHALL NOT REVERT

Sec. 79. (a) Funds unexpended and unencumbered for the Public Schools' Central Payroll System may not revert on June 30, 1986, but shall remain available for expenditure until June 30, 1987.

(b) This section shall become effective June 30, 1986.

PART IX.—HIGHER EDUCATION

—AREA COORDINATOR FUNDS TRANSFERRED

Sec. 80. Funds appropriated in Section 2 of this act to the Department of Community Colleges in the category of State aid - Area Coordinator (Line Item 6324) are transferred to the category of State Aid - Small Business (Line Item 6345).

—TUITION AND FEES

Sec. 81. (a) Effective July 1, 1986, the State Board of Community Colleges shall increase the regular tuition rate charged a full-time in-State student in curricular courses by fifteen dollars (\$15.00) per quarter. The State Board of Community Colleges shall also increase the fees for extension courses as follows:

(1) Avocational extension courses - \$6.00 per course

(2) Practical skills and other extension courses - \$5.00 per course

Effective July 1, 1987, the State Board of Community Colleges shall increase the regular tuition rate charged a full-time in-State student in curricular courses by an additional nine dollars (\$9.00) per quarter.

(b) Effective July 1, 1986, the State Board of Community Colleges shall increase the regular tuition rate charged a full-time out-of-State student in curricular courses to five hundred four dollars (\$504.00).

Effective July 1, 1987, the State Board of Community Colleges shall increase the regular tuition rate charged a full-time out-of-State student in curricular courses to seven hundred two dollars (\$702.00).

—COMPENSATORY EDUCATION FUNDS

Sec. 82. (a) Funds are appropriated in Section 2 of this act to the Department of Community Colleges for compensatory education programs in the amount of nine hundred seventy-five thousand dollars (\$975,000). Of these funds, the sum of seventy-five thousand dollars (\$75,000) shall be used by the Department of Community Colleges to develop community college instructional programs for mentally handicapped adults and the

sum of nine hundred thousand dollars (\$900,000) shall be used to provide funds to local community colleges to provide these programs.

(b) This section may not be construed to require the General Assembly to provide continuing or future funding for these programs.

—RESERVE FUND FOR STATE BOARD OF COMMUNITY COLLEGES

Sec. 83. Of the funds appropriated in Section 2 of this act to the Department of Community Colleges, the sum of one million five hundred thousand dollars (\$1,500,000) may be used by the State Board of Community Colleges for increased enrollments, feasibility studies, new ideas, innovative programs, and allocations to Pamlico Technical College due to its size. The Department of Community Colleges shall report on allocations of these funds to Pamlico Technical College, within 30 days after the convening of the 1987 General Assembly, to the chairmen of the Senate Committee on Appropriations, the Senate Committee on Base Budget, the House Committee on Appropriations Base Budget, and the House Committee on Appropriations Expansion Budget, and to the Fiscal Research Division.

—COMMUNITY COLLEGE SALARY FUNDS

Sec. 84. Of the funds appropriated to the Department of Community Colleges in Section 2 of this act, the sum of two million one hundred forty-three thousand seventy-six dollars (\$2,143,076) shall be used to continue the improvement of faculty salaries by providing salary adjustment funds to increase curriculum and extension unit allocations by three hundred dollars (\$300.00) each.

—COMMUNITY COLLEGES FORMULA UPDATE

Sec. 85. Funds appropriated to the Department of Community Colleges in Section 2 of this act for purposes of formula allocations to the institutions shall be allocated in accordance with the formula approved as a proposed administrative rule by the State Board of Community Colleges at its April 10, 1986, board meeting.

—VOCATIONAL TEXTILE SCHOOL EQUIPMENT FUNDS

Sec. 86. Of the funds appropriated in Section 2 of this act to the Department of Community Colleges for equipment, the sum of forty-one thousand six hundred twenty-nine dollars (\$41,629) shall be allocated to the North Carolina Vocational Textile School in Belmont for equipment, supplies, and materials.

—SOUTHWESTERN TECHNICAL COLLEGE HEALTH CENTER FUNDS/PURPOSE MODIFIED

Sec. 87. (a) Section 32 of Chapter 757 of the 1985 Session Laws is amended by deleting the language "to purchase equipment for" and substituting "for the costs of construction at".

(b) The funds appropriated in Section 32 of Chapter 757 of the 1985 Session Laws shall be transferred to a capital account in order to accomplish the purposes of this section.

—COMMUNITY COLLEGE TRUSTEES TRAINING COURSE

Sec. 88. The General Assembly urges the North Carolina Association of Community College Trustees to continue providing and to expand its training course for community college trustees and to offer the course on

a regional basis. The General Assembly also urges all community college trustees, especially those serving their first term, to complete the course.

—CONVERSION OF TECHNICAL COLLEGES TO COMMUNITY COLLEGES

Sec. 89. James Sprunt Technical College is converted from a technical college to a community college.

Durham Technical Institute is converted from a technical institute to a community college.

A maximum of ten percent (10%) of the total number of curriculum student membership hours for each of these institutions may be generated from college transfer programs, unless the State Board of Community Colleges gives the institution permission to exceed ten percent (10%).

If the State Board grants such permission, the State Board shall report its action immediately to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

The State Board may not allocate these institutions additional funds for the 1986-87 fiscal year to accomplish the intent of this section.

—ALLOCATION OF COMMUNITY COLLEGE CAPITAL FUNDS

Sec. 90. (a) The funds appropriated to the Department of Community Colleges in Section 4 of this act shall be allocated as follows:

<i>Institution</i>	<i>1986-87</i>
Carteret TC	\$ 850,000
Central Piedmont CC	1,000,000
TC of Alamance	1,000,000
Mayland TC	300,000
Coastal Carolina CC	298,000
Pitt CC	250,000
Rowan TC	1,000,000
Sampson TC	700,000
Sandhills CC	1,000,000
Cape Fear TI	100,000
Richmond TC	1,450,000
Davidson County CC	400,000
Catawba Valley TC	1,000,000
Surry CC	50,000
Caldwell CC & TI	100,000
Lenoir CC	10,000
Vance-Granville CC	500,000
Guilford TCC	500,000
Johnston TC	575,000
Wilson County TC	260,000
Western Piedmont CC	700,000
Randolph TC	500,000
Nash TC	100,000
Blue Ridge TC	761,000
Cleveland TC	1,000,000
Gaston College	955,000
Wilkes CC	100,000
Forsyth TC	1,000,000
Rockingham CC	1,000,000

<i>Institution</i>	<i>1986-87</i>
Edgecombe TC	500,000
Tri-County CC	300,000
Roanoke-Chowan TC	300,000
Anson TC	155,000
Brunswick TC	462,500
Martin CC	750,000
Beaufort Co. CC	75,000
Asheville Buncombe TC	800,000
Haywood TC	150,000
Fayetteville TI	1,000,000
Southwestern TC	75,100
Central Carolina CC	500,000

(b) Of the funds allocated to Blue Ridge Technical College in subsection (a) of this section, the sum of five hundred seventeen thousand five hundred dollars (\$517,500) shall be used for a satellite in Transylvania County. Contributions of land, buildings, and moneys made by Transylvania County prior to July 1, 1986, shall satisfy the requirement that these funds be matched.

(c) Of the funds allocated to Asheville-Buncombe Technical College in subsection (a) of this section, the sum of eight hundred thousand dollars (\$800,000) shall be used for a satellite in Madison County.

(d) Of the funds allocated to Southwestern Technical College in subsection (a) of this section, the sum of seventy-five thousand one hundred dollars (\$75,100) shall be used for a satellite in Macon County. These funds are not subject to any requirement that they be matched by local funds.

Funds allocated to Southwestern Technical College for the Macon County Satellite for the 1985-86 fiscal year shall be matched with one dollar (\$1.00) of non-State funds for every two dollars (\$2.00) of State funds.

(e) Of the funds allocated to Central Carolina Technical College in subsection (a) of this section, the sum of three hundred fifty thousand dollars (\$350,000) shall be used for a satellite in Harnett County.

(f) Of the funds allocated to Vance-Granville Community College in subsection (a) of this section, the sum of two hundred thousand dollars (\$200,000) shall be used for a satellite in Granville County and the sum of three hundred thousand dollars (\$300,000) shall be used by Vance-Granville Community College for planning.

(g) Funds allocated to Vance-Granville Community College for the 1986-87 fiscal year to be used for the construction of a Warren County satellite, as provided in Section 5.16(b) of Chapter 480 of the 1985 Session Laws, are not subject to any requirement that they be matched by local funds.

(h) Funds allocated to Anson Technical College, Mayland Technical College, and Tri-County Community College for the 1986-87 fiscal year are not subject to any requirement that they be matched by local funds.

(i) Funds appropriated for the 1985-86 and 1986-87 fiscal years to the Department of Community Colleges and allocated to local institutions for

capital projects shall remain available until expended and may not revert to the General Fund.

—COMMUNITY COLLEGE CAPITAL LOAN AUTHORITY

Sec. 90.1. The State Board of Community Colleges is authorized to negotiate loans of capital construction funds appropriated to the institutions of the Community College system by the General Assembly between institutions upon written confirmation of agreement by both local boards of trustees.

—UNC AGRICULTURAL PROGRAMS

Sec. 91. From the funds appropriated in Section 2 of this act to the Board of Governors of The University of North Carolina for expansion of agricultural programs, the following allocations shall be made:

(1) Ninety-six thousand two hundred dollars (\$96,200) to the Castle Hayne Research Station to provide funds for a Plant Pathologist and a Plant Geneticist;

(2) Twenty-two thousand dollars (\$22,000) for research in sweet potato pest control, including cutworms;

(3) Twenty thousand dollars (\$20,000) to conduct the North Carolina Turfgrass Survey;

(4) Funds necessary to continue the items specified in Section 75 of Chapter 479 of the 1985 Session Laws as being continued in the 1986-87 fiscal year; and

(5) The balance shall be used as needed for agricultural programs identified in the priorities requested by the Board of Governors for agricultural programs.

—AID TO PRIVATE COLLEGES

Sec. 92. The first paragraph of Section 80 of Chapter 479 of the 1985 Session Laws is amended by deleting the language "nine hundred fifty dollars (\$950.00)" and substituting "one thousand dollars (\$1,000)".

—SCHOOL OF MEDICINE AT EAST CAROLINA UNIVERSITY/REALLOCATION OF FUNDS

Sec. 93. (a) Of the funds appropriated for the School of Medicine at East Carolina University for the 1985-86 fiscal year and not expended on or before June 30, 1986, up to one million one hundred thousand dollars (\$1,100,000) may be carried forward to the 1986-87 fiscal year as a one-time increase for contract payments to Pitt County Memorial Hospital.

(b) This section shall become effective June 30, 1986.

—WESTERN CAROLINA FUNDS EXTENDED

Sec. 94. (a) The funds appropriated to the Board of Governors of The University of North Carolina in Section 306 of Chapter 778 of the 1985 Session Laws may not revert but shall remain available to Western Carolina University for fiscal year 1986-87 for a study of the history of Jackson County.

(b) This section shall become effective June 30, 1986.

—UNIVERSITY REPAIR AND RENOVATIONS PROJECT AUTHORIZED

Sec. 95. The Board of Governors of The University of North Carolina may repair and renovate the President's residence. This capital project shall be financed from a combination of gifts, grants, and overhead receipts and may not be financed with appropriations from the General

Fund. The cost of the project may not exceed three hundred seventy-four thousand dollars (\$374,000).

—EAST CAROLINA UNIVERSITY/REALLOCATION OF CAPITAL FUNDS

Sec. 96. Funds, which are from previous capital improvements appropriations to the Board of Governors of The University of North Carolina for East Carolina University, remaining in the Capital Improvements Budget Code 48421 of the Board of Governors of The University of North Carolina shall be reallocated as follows:

(1) Up to one million two hundred eighteen thousand six hundred dollars (\$1,218,600) may be used for the Free Standing Birthing Center at East Carolina University;

(2) Up to three hundred thirty-one thousand five hundred dollars (\$331,500) may be used to complete the second floor of the East Carolina University Health Sciences Library; and

(3) Up to two million nine hundred twenty-nine thousand five hundred dollars (\$2,929,500) may be reserved for construction of the Sports Medicine-Physical Education facility at East Carolina University.

—PULP AND PAPER BUILDING FUNDS/NCSU

Sec. 97. The funds appropriated in Section 4 of this act to the Board of Governors of The University of North Carolina for Advance Planning for a building for the Pulp and Paper Program at North Carolina State University may not be used until The University has raised matching funds of seventy-five thousand dollars (\$75,000).

Sec. 97.1. Of the funds appropriated in Section 2 of this act to the Board of Governors of The University of North Carolina, the sum of two hundred fifty thousand dollars (\$250,000) for the 1986-87 fiscal year shall be used for the Mathematics and Science Network for a pilot program for improving the academic background of Blacks, American Indians and girls in the public schools in the fields of mathematics and science through tutoring, study groups, participation in summer enrichment programs and science-mathematics competitions, scholarships and other incentives and to provide teachers with in-service training programs to motivate minorities and female students towards mathematics and science-based careers.

—WESTERN NORTH CAROLINA ARBORETUM

Sec. 98. Chapter 116 of the General Statutes is amended by adding a new Article to the end to read:

“Article 30.

“Western North Carolina Arboretum.

“§ 116-240. *Establishment of arboretum.*—The Western North Carolina Arboretum is established on land being provided by the United States Forest Service from property presently designated as the Bent Creek Experimental Forest.

The United States Forest Service has committed itself to continuing its work of the land provided to the arboretum as many of its studies will be compatible with the work of the arboretum.

“§ 116-241. *Purpose and scope of Arboretum.*—The arboretum shall be prepared for viewing and maintaining the necessary plantings that will

be added to the present vegetation of the site in order to make the arboretum fully representative of Western North Carolina. Extensive clearing of underbrush and other debris needed to prepare the area for demonstrations, installation of fencing for security purposes, land modifications and improvement, and plant acquisitions shall be carried out to make the arboretum both representative and accessible to the public. Roads and pathways shall be constructed as necessary throughout the arboretum to enable visitors to ride and walk through the area in order to observe and study the various kinds of vegetation. An extensive program of identification of trees, shrubs, and other living material shall be ongoing at the arboretum. Necessary visitor and educational buildings, greenhouses, and a small lecture hall, with restrooms and other associated requirements, shall be constructed on the property. Machine sheds and service buildings shall also be constructed on the property to house equipment and to provide working space for the personnel employed in developing and operating the arboretum.

“§ 116-242. *Administration of arboretum; acceptance of gifts and grants.*—The arboretum shall be administered by The University of North Carolina through the Board of Directors established in G.S. 116-243. State funds for the administration of the arboretum shall be appropriated to The University of North Carolina for the University of North Carolina at Asheville. The University of North Carolina may receive gifts and grants to be used for development or operation of the arboretum.

“§ 116-243. *Board of directors established; appointments.*—A board of directors to govern the operation of the arboretum is established, to be appointed as follows:

(1) Two by the Governor, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;

(2) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the President of the Senate, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;

(3) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;

(4) The President of The University of North Carolina or his designee to serve ex officio;

(5) The chancellors, chief executive officers, or their designees of the following institutions of higher education: North Carolina State University, Western Carolina University, The University of North Carolina at Asheville, Mars Hill College, and Warren Wilson College, to serve ex officio;

(6) The President of Western North Carolina Arboretum, Inc., to serve ex officio;

(7) Six by the Board of Governors of The University of North Carolina, initially, three for one-year terms, and three for three-year terms. Successors shall be appointed for four-year terms. One shall be an active grower of nursery stock, and one other shall represent the State's garden clubs;

(8) The executive director of the arboretum and the Executive Vice President of Western North Carolina Development Association shall serve ex officio as nonvoting members of the board of directors.

All appointed members may serve two full four-year terms following the initial appointment and then may not be reappointed until they have been absent for at least four years. Members serve until their successors have been appointed. Appointees to fill vacancies serve for the remainder of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms begin July 1, 1986.

The chairman of the board of directors shall be elected biennially by majority vote of the directors.

The executive director of the arboretum shall report to the board of directors.

“§ 116-244. *Duties of board of directors.*—The board of directors of the arboretum has the following duties and responsibilities:

(1) Development of the policies and procedures concerning the use of the land and facilities being developed as part of the Western North Carolina Arboretum, Inc.;

(2) Approval of plans for any buildings to be constructed on the facility;

(3) Maintenance and upkeep of buildings and all properties;

(4) Approval of permanent appointments to the staff of the arboretum;

(5) Recommendations to the General Administration of candidates for executive director of the arboretum;

(6) Recommendations to the General Administration for necessary termination of the executive director or other personnel of the arboretum;

(7) Ensurance of appropriate liaison between the arboretum and the U.S. Forest Service, the Western North Carolina Arboretum, Inc., and other agencies and organizations of interest to and involved in the work at the arboretum;

(8) Development of various policies and directives, including the duties of the executive director, to be prepared jointly by the members of the board of directors and the executive director;

(9) Approval of annual expenditures and budget requests to be submitted to the Board of Governors.

The board of directors shall meet at least twice a year, and more frequently on the call of the chairman or at the request of at least 10 members of the board. Meetings shall be held at the arboretum, the University of North Carolina at Asheville, or Western Carolina University.”

Sec. 99. G.S. 120-123 is amended by adding a new subdivision to read:

“(46) The Board of Directors of the Western North Carolina Arboretum, as established in G.S. 116-240.”

—WESTERN NORTH CAROLINA ARBORETUM FUNDS/DO NOT REVERT

Sec. 100. (a) Funds in the amount of two hundred fifty thousand dollars (\$250,000) appropriated for the 1985-86 fiscal year in Section 4 of Chapter 480 of the 1985 Session Laws to the Board of Governors of The University of North Carolina, University of North Carolina at Asheville,

Reserve for Advance Planning and Land Purchase for the Arboretum do not revert to the General Fund at the end of the 1985-86 fiscal year but shall remain available until expended for the Arboretum.

(b) This section shall become effective June 30, 1986.

PART X.—HUMAN RESOURCES

—HAZARDOUS WASTE EXPANSION

Sec. 101. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Health Services, the sum of two hundred twenty thousand dollars (\$220,000) shall be used for additional staff in the Solid and Hazardous Waste Branch. The Department of Human Resources shall report to the Joint Appropriations Base Budget Committee on Human Resources and the Fiscal Research Division, no later than February 1, 1987, on the number of additional field inspectors that are involved with the inspection of hazardous waste facilities.

—SOLID WASTE EXPANSION

Sec. 102. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Health Services, the sum of three hundred fifty-five thousand five hundred nine dollars (\$355,509) shall be used for additional staff in the solid waste program in the Solid and Hazardous Waste Branch.

(b) The Department shall report to the Joint Appropriations Base Budget Committee on Human Resources, and to the Fiscal Research Division no later than February 1, 1987, on what new positions were added. The report shall also include information on the Department's efforts to assist counties in meeting State requirements relating to landfill applications, landfill monitoring, and enforcement activities.

—PREVENTIVE DENTAL HEALTH PROGRAM FUNDS

Sec. 103. Of the funds appropriated to the Department of Human Resources, Division of Health Services, in Section 2 of this act, the sum of two hundred thousand three hundred dollars (\$200,300) shall be used to assist in the completion of the implementation of the 10-year plan of the Dental Health Section, Division of Health Services, Department of Human Resources. The funds shall be used to supplement the preventive dental health program and to provide for seven public health dental hygienist positions along with necessary supplies, equipment, travel, and support funds. These positions shall be used to provide the nine unserved counties with preventive and educational dental health services. The Department shall report by December 1, 1986, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the implementation of the program in the nine previously unserved counties.

—MATERNAL AND CHILD HEALTH SERVICES RESERVE

Sec. 104. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Health Services, the sum of one million two hundred thousand dollars (\$1,200,000) shall be used for the establishment of a reserve to offset federal budget reductions affecting maternal and child health services delivered by local health departments in fiscal year 1985-86. Funds from this reserve may be used only to liquidate fiscal year 1985-86 obligations and expenditures for which local

health departments could not be reimbursed due to reductions in Low-Income Energy Assistance Block Grant Transfers. Unexpended funds remaining in this reserve at the end of fiscal year 1986-87 shall revert to the General Fund.

—PRESCRIPTION DRUG FUNDS FOR DISABLED

Sec. 105. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Health Services, the sum of four hundred thousand dollars (\$400,000) shall be used to continue the prescription drug reimbursement program for the disabled to provide assistance in purchasing prescription drugs to people terminated from the Social Security Disability program from March 1, 1981, through September 30, 1983, begun pursuant to Section 64(1), Chapter 1034, 1983 Session Laws. The prescription drug program shall serve only current residents of North Carolina. The rules for operating this prescription drug assistance program shall be adopted by the Secretary of the Department of Human Resources pursuant to recommendations of the Disability Task Force as authorized by Section 64(3), Chapter 1034, 1983 Session Laws.

(b) The Secretary of the Department of Human Resources shall report on a quarterly basis to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the expenditure of funds required by this section.

—SICKLE CELL FUND

Sec. 106. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Health Services, the sum of two hundred eighty-one thousand dollars (\$281,000) shall be used to continue sickle cell programs.

—WICCACON CENTER FUNDS

Sec. 107. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the sum of ninety-six thousand dollars (\$96,000) shall be allocated to the Roanoke-Chowan Mental Health, Mental Retardation, and Substance Abuse Authority for the Wiccacon Center. These funds shall be used to assist in the operation of the Center's treatment programs for substance abusers.

—CHRONICALLY MENTALLY ILL

Sec. 108. (a) Effective June 30, 1986, Section 16 of Chapter 791 of the 1985 Session Laws is repealed.

(b) Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, five million dollars (\$5,000,000) shall be used to provide additional services to the chronically mentally ill. These funds are to be allocated on a per capita basis by the Division to the area mental health, mental retardation, and substance abuse authorities to provide services to adults with chronic mental illness.

(c) The funds in line item 14460-1270-6351 are transferred to line item 14460-1270-6314 to continue to provide transitional residence services, apartment living services and community support program services for chronically mentally ill adults. If these funds are used to contract for services, up to five percent (5%) of the funds may be retained to cover

costs of administrative and clinical supervision of the contract by the authority responsible for monitoring the contract.

—ADAP TRANSPORTATION REIMBURSEMENT

Sec. 109. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the sum of five hundred four thousand two hundred forty dollars (\$504,240) shall be used to reimburse Adult Developmental Activity Programs for transportation of clients. The reimbursement shall be based on a cost per client basis. The minimum amount that a program may be reimbursed for transportation cost shall be ten dollars (\$10.00) per client per month. The maximum amount that a program may be reimbursed for transportation cost shall be twenty-five dollars (\$25.00) per client per month.

(b) In reimbursing Adult Developmental Activity Programs, the Department shall base the reimbursement on the distribution by cost range developed by the Division of Mental Health, Mental Retardation, and Substance Abuse Services' Transportation Survey for 1985-86.

—FIRST STEP FARM

Sec. 110. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, eighty-seven thousand dollars (\$87,000) shall be used as follows: (1) sixty-nine thousand one hundred eighty-four dollars (\$69,184) to increase the rate paid to First Step Farm in Buncombe County to thirty-two dollars (\$32.00) per day per client; (2) and seventeen thousand eight hundred sixteen dollars (\$17,816) to assist in meeting increased operating expenses.

—AREA MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE FUNDS

Sec. 111. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the following funds are allocated for the following purposes:

- (1) Eighty-seven thousand six hundred eighteen dollars (\$87,618) to the TREND Area Mental Health, Mental Retardation, and Substance Abuse Authority to be used to continue services that would be reduced or eliminated because of the termination of a federal staffing grant;
- (2) Ninety-three thousand two hundred sixteen dollars (\$93,216) to the Piedmont Area Mental Health, Mental Retardation, and Substance Abuse Authority to be used to continue services that would be reduced or eliminated because of the termination of a federal staffing grant;
- (3) Fifty-five thousand four hundred sixty-eight dollars (\$55,468) to the Smoky Mountain Area Mental Health, Mental Retardation, and Substance Abuse Authority to continue operation of the In-Home Support Services Program; and
- (4) One hundred forty thousand dollars (\$140,000) to the Durham Area Mental Health, Mental Retardation, and Substance Abuse Authority for the Lincoln Community Health Center in providing mental health services.

—SOUTH CENTRAL DEINSTITUTIONALIZATION PROJECT REPORT

Sec. 112. The Department of Human Resources shall report to the 1987 General Assembly on progress made with the deinstitutionalization project in the South Central region.

—AREA MENTAL HEALTH IN-PATIENT FUNDS

Sec. 113. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the sum of eight hundred fifty thousand dollars (\$850,000) shall be used for capital or operating expenses to provide additional local in-patient or alternatives to in-patient mental health services. These funds shall be distributed in the following amounts: Wake Mental Health, Mental Retardation, and Substance Abuse Authority, two hundred fifty thousand dollars (\$250,000); Blue Ridge Mental Health, Mental Retardation, and Substance Abuse Authority, one hundred fifty thousand dollars (\$150,000); Surry-Yadkin Mental Health, Mental Retardation, and Substance Abuse Authority, one hundred thousand dollars (\$100,000); and Randolph County Area Mental Health, Mental Retardation, and Substance Abuse Authority, three hundred fifty thousand dollars (\$350,000).

Sec. 114. (a) The second sentence of Section 98 of Chapter 757 of the 1985 Session Laws is amended by deleting the phrase "one hundred thousand dollars (\$100,000)" and substituting "one hundred forty thousand dollars (\$140,000)".

(b) This section shall become effective June 30, 1986.

—HUD HOMES

Sec. 115. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the sum of one million five hundred thirteen thousand three hundred eight dollars (\$1,513,308) shall be used to provide start-up and operating costs for group homes, intermediate care facilities for the mentally retarded, and apartment living programs. Programs eligible for these funds include those programs approved in the 1985 Section 202 allocations by the Department of Housing and Urban Development and the two thirty-bed intermediate care facilities for the mentally retarded operated by the Blue Ridge Area Foundation.

—USE LIQUOR TAX FOR SUBSTANCE ABUSE

Sec. 116. (a) G.S. 18B-805(b)(3) is amended by rewriting the second sentence of that subdivision to read:

"The Department of Human Resources shall spend those funds for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse."

(b) G.S. 18B-805(h) is amended by rewriting the first sentence of that subsection to read:

"Funds distributed under subdivisions (b)(4) and (c)(3) of this section shall be spent for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse."

—STATE-FUNDED GUARDIANS TO RETURN FEES TO STATE

Sec. 117. Funds are appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, to fund the corporate guardianship program of the Association for Retarded Citizens/North Carolina, Inc. When serving as a general guardian for a person whose estate has adequate funds, the Association shall apply to the clerk of court for compensation for its services as guardian. Any compensation awarded by the clerk shall be paid to the General Fund.

—MEDICAID AND AFDC ELIGIBILITY STANDARDS

Sec. 118. Section 86(d) of Chapter 479 of the 1985 Session Laws is amended by deleting the phrase "July 1, 1985" and substituting "January 1, 1987"; and is further amended by rewriting the table to read:

<i>Family Size</i>	<i>Standard Of Need</i>	<i>Medically Needy</i>	
		<i>AFDC Payment Level*</i>	<i>AA,AB,AD*</i>
1	\$4,128	\$2,064	\$2,800
2	5,400	2,700	3,600
3	6,216	3,108	4,200
4	6,792	3,396	4,600
5	7,416	3,708	5,000
6	7,992	3,996	5,400
7	8,554	4,272	5,700
8	8,928	4,464	6,000".

—AFDC EMERGENCY ASSISTANCE PROGRAM

Sec. 119. The Social Services Commission shall adopt rules to implement the Aid to Families with Dependent Children-Emergency Assistance (AFDC-EA) Program. Effective November 1, 1986, the Department of Human Resources, Division of Social Services, shall provide emergency assistance to families whose family income does not exceed one hundred ten percent (110%) of the current federal poverty level as established by the U.S. Secretary of Health and Human Services and published annually in the Federal Register. Annual program benefits may not exceed five hundred dollars (\$500.00). Funding for the non-federal share of Emergency Assistance benefits shall be shared at a rate of fifty percent (50%) State participation and fifty percent (50%) county participation.

Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, nine hundred twenty-two thousand seven hundred ninety dollars (\$922,790) shall be used to fund the State's participation in the Emergency Assistance Program.

—NURSING HOMES THERAPEUTIC LEAVE REVISED

Sec. 120. G.S. 108A-62 is amended by deleting the numeral "18" and substituting the numeral "60"; and by adding after the word "program" the following: ", provided, however, no more than 14 consecutive days may be taken without approval of the Department of Human Resources, Division of Medical Assistance".

—MEDICAID PHARMACY FEE

Sec. 121. Section 86(a)(5) of Chapter 479 of the 1985 Session Laws is amended by deleting the phrase "three dollars and fifty cents (\$3.50)" and substituting the phrase "three dollars and sixty-seven cents (\$3.67)".

—CHILD ABUSE MEDICAL EVALUATION PROGRAM FUNDS

Sec. 122. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, the sum of one hundred thousand dollars (\$100,000) shall be used to support cost increases in the Child Abuse Medical Evaluation Program.

—LONG TERM CARE SCREENING PROGRAMS

Sec. 123. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, the sum of one hundred thousand dollars (\$100,000) shall be used to provide grants-in-aid of twenty-five thousand dollars (\$25,000) each to Long Term Care Screening Programs in Ashe, Watauga, Onslow, and Carteret Counties.

—DOMICILIARY CARE RATE INCREASE

Sec. 124. Effective October 1, 1986, the maximum monthly rates for ambulatory residents in domiciliary care facilities shall be six hundred twenty-three dollars (\$623.00). The maximum monthly rate for semi-ambulatory residents shall be five percent (5%) more than the rate for ambulatory residents.

—ADDITIONAL ADULT DEVELOPMENTAL ACTIVITY PROGRAM SLOTS

Sec. 125. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the sum of one million one hundred forty thousand dollars (\$1,140,000) shall be used to fund additional Adult Developmental Activity Program slots in those areas of the State with the most critical needs as determined by the Department of Human Resources.

—PROJECT SELF SUFFICIENCY/NEW DIRECTION

Sec. 126. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, the sum of forty thousand dollars (\$40,000) shall be allocated to the Raleigh Housing Authority to operate the Wake County Self Sufficiency/New Direction Project.

—PERSONAL NEEDS ALLOWANCE

Sec. 127. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, the sum of four hundred six thousand fifty dollars (\$406,050) shall be used to increase the personal needs allowance for residents of domiciliary care facilities from twenty dollars (\$20.00) to twenty-five dollars (\$25.00) per month.

—COMMUNITY WORK EXPERIENCE PROGRAM

Sec. 128. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources for the Community Work Experience Program, the sum of six hundred thousand dollars (\$600,000) shall be used to expand the program into 18 new counties in 1986-87. The purpose of the Community Work Experience Program is to provide work and training for families receiving assistance under the Aid to Families With Dependent Children (AFDC) Program.

(b) Uniform program components shall be developed in the Community Work Experience Program for all program participants. The program components shall include the following:

- (1) Assessment of participant vocational and academic skills;
- (2) Development of an employability and training plan;
- (3) Job Preparation;
- (4) Job Development and Placement Services;
- (5) Job Training;
- (6) Work Experience;
- (7) Supportive Services; and
- (8) Post-termination services and follow-up.

(c) The County Departments of Social Services shall ensure that each participant is being provided necessary transportation and child care prior to requiring the participant to participate in a program component. The participant shall be reimbursed for any necessary expenses that are incurred in order to participate in a program component.

(d) Participants placed on work experience sites shall be placed for a period not to exceed nine months. After six months, if a participant is still on the worksite, a reevaluation of that participant's employability and placement plan shall occur. Health related problems that may keep a participant from participating in the program shall be taken into consideration prior to placing participants on work experience sites.

(e) Program participants shall be offered institutional skills training, on-the-job training, or other skills training that is consistent with their employability and training plan. This program shall be coordinated with skills training efforts through local Private Industry Councils and Service Delivery Areas under the Job Training Partnership Act, P.L. 97-300, and other federal, State, or local training programs.

(f) AFDC recipients who are enrolled in a General Equivalency Diploma program shall be excused from participation in the Community Work Experience Program.

(g) Program participants shall be provided a handbook outlining their rights as program participants. This handbook shall include a participant's right to appeal, and the obligation of the program to inform and protect a recipient's rights.

(h) The amount of time that a participant can be required to work at a work experience site shall be calculated by dividing the participant's net AFDC grant by minimum wage. For purposes of this section, the net AFDC grant is equal to the amount of a participant's AFDC grant minus the child support assigned to the State. In no event will a participant be placed at a work experience site for more than 50 hours a month.

(i) The General Assembly, through the Legislative Services Commission, may conduct an evaluation of the Community Work Experience Program. The evaluation should include an analysis of:

- (1) The program's impact in helping participants obtain unsubsidized employment;
- (2) The types of unsubsidized jobs that participants obtain as a result of the program and the average salary and the benefit package;
- (3) Job retention information, including retention rates after six, nine, and 12 months;

- (4) The issue of whether participants displace regular, paid employees;
- (5) The number of participants sanctioned from the program and the reason for the sanctions;
- (6) The adequacy of the supportive services provided during a participant's participation in the program and upon obtaining unsubsidized employment;
- (7) The adequacy of the job training opportunities in helping participants obtain the skills that would enable them to move permanently out of welfare;
- (8) The costs of the program per participant, including the costs to the worksite sponsors, as compared to the savings to the State that are directly attributable to the program; and
- (9) The participants' evaluation of the program in improving their assessment of the adequacy skills training and support services. The evaluation shall include a comparison of the Community Work Experience Program to other job training models that work with AFDC recipients, including Work Incentive Program (WIN), Job Training Partnership Act (JTPA), the Greensboro Compass program, Human Resource Development (HRD), the Raleigh Self-Sufficiency Demonstration project, and grant diversion.

(j) The Department of Human Resources shall submit a plan to the United States Department of Health and Human Services to operate an AFDC grant diversion program for participants in a program. The Department shall solicit community involvement from the private and nonprofit sectors in developing the grant diversion plan and job placements.

(k) The Department of Human Resources shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 1987 on its progress in implementing the new program, the grant diversion, and the already existing programs.

—CHILD SUPPORT ENFORCEMENT ADMINISTRATION

Sec. 129. G.S. 110-141 is amended by deleting the second paragraph and substituting the following:

"Effective July 1, 1986, the entity, whether the board of county commissioners or the Department of Human Resources, that is administering, or providing for the administration of, this program in each county on June 30, 1986, shall continue to administer, or provide for the administration of, this program in that county, with one exception. If a county program is being administered by the Department of Human Resources on June 30, 1986, and if the board of county commissioners of this county desires on or after that date to assume responsibility for the administration of the program, the board of county commissioners shall notify the Department of Human Resources between July 1 and September 1 of the current fiscal year. The obligations of the board of county commissioners to assume responsibility for the administration of the program shall not commence prior to July 1 of the subsequent fiscal year. Until that time, it is the responsibility of the Department of Human Resources to administer or provide for the administration of the program in the county.

A county may negotiate alternative arrangements to the procedure outlined in G.S. 110-130 for designating a local person or agency to administer the provisions of this Article in that county."

—DAY CARE RATES

Sec. 130. (a) Section 97 of Chapter 479 of the 1985 Session Laws is rewritten to read:

"Sec. 97. (a) Rules for the monthly schedule of payments for the purchase of day care services for low income children shall be established by the Social Services Commission pursuant to G.S. 143B-153(8)a., in accordance with the following requirements:

- (1) Effective July 1, 1986, for facilities in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.
- (2) Effective July 1, 1986, facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds shall be reimbursed at the facilities' fiscal year 1985-86 payment rate.
- (3) Effective January 1, 1987, facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds may choose annually one of the following payment options:
 - a. The facility's payment rate for fiscal year 1985-86; or
 - b. The county market rate, as calculated annually by the Department of Human Resources' Office of Child Day Care Services. A market rate shall be calculated for each county and for each age group of enrollees, and shall be the county average of all fees charged to unsubsidized private paying parents for each age group of enrollees. In fiscal year 1986-87, the county market rates shall be calculated from data collected by the Department of Human Resources' Office of Child Day Care Services in its 1986 Survey of Market Rates. Effective July 1, 1987, the county market rates shall be calculated from facility fee schedules collected by the Office of Child Day Care Services during its annual inspection visits.

(b) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes may participate in the program that provides for the purchase of slots in day care facilities, for minor children of needy families. No separate licensing requirements may be used to select facilities to participate.

Effective July 1, 1986, day care plans from which the State purchases day care services shall meet the standards established by the Child Day Care Commission pursuant to G.S. 110-101 and G.S. 110-105.1. Until it can demonstrate that it meets the standards adopted by the Child Day Care Commission, a day care plan from which the State purchases day care services for minor children of needy families shall meet all certification standards adopted by the Department of Human Resources' Office of Child Day Care Services. The fee for the purchase of care from a day care plan is one hundred fifty dollars (\$150.00) per month. The fee for the purchase

of care from individual Child Caring Providers is one hundred dollars (\$100.00) per month.

(c) Effective January 1, 1986, providers whose programs exceed licensing standards may modify their programs to standards consistent with licensing standards.

(d) Any savings that result by reason of this schedule shall be used by the Department to provide for payment of the costs of necessary day care for more minor children of needy families.

(e) County departments of social services shall continue to negotiate with day care providers for day care services below those rates prescribed by subsection (a) of this section. County departments are directed to purchase day care services so as to serve the greatest number of children possible with existing resources."

—CERTIFICATE OF NEED AND STATE HEALTH PLANNING FUNDS

Sec. 131. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Facility Services, the sum of one hundred thirty thousand dollars (\$130,000) shall be used as a reserve to offset potential reductions in federal funds in the health planning and certificate of need programs.

—RADIATION PROTECTION EXPANSION

Sec. 132. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Facility Services, the sum of two hundred forty-eight thousand four hundred sixty dollars (\$248,460) shall be used for additional staff and to replace radiation monitoring equipment.

(b) The Department shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by December 1986 on the status of the Southeast Interstate Low-Level Radioactive Waste Management Commission in designating a new host state. The Department shall also report on the monitoring that is being conducted around all nuclear power plants in North Carolina and within 20 miles of all North Carolina borders.

—DISABILITY TASK FORCE FUNDS

Sec. 133. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, the sum of four thousand dollars (\$4,000) shall be allocated to the Disability Task Force created in Section 64 of Chapter 1034 of the 1983 Session Laws. The Task Force may make these funds available to the Social Security Information Office created in Section 82 of Chapter 757 of the 1985 Session Laws for the work of the Public Information Office.

—PRESCRIPTION DRUG FOR DISABLED FUND TRANSFER

Sec. 134. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Health Services, for the Prescription Drug Program, the sum of five thousand dollars (\$5,000) may be transferred to the Social Security Public Information Office for the increased operating expenses of the office.

—YOUTH SERVICES FUNDS REALLOCATED

Sec. 135. Of the funds appropriated to the Department of Human Resources, Division of Youth Services, in Section 2 of Chapter 479 of the

1985 Session Laws for fiscal year 1986-87 for a new campsite for the Eckerd Wilderness Therapeutic Camp Program, the sum of eight hundred thirty-seven thousand one hundred forty-nine dollars (\$837,149) shall be used as follows:

(1) Four hundred thousand dollars (\$400,000) shall be used for operating expenses to maintain the current number of slots for campers in the Eckerd Wilderness Therapeutic Camp Program;

(2) Fifty thousand dollars (\$50,000) shall be used for a grant-in-aid to the Moore County Children's Center in Southern Pines, provided that the sum of two hundred thousand dollars (\$200,000) is raised by the Center to match the grant with non-State funds; and

(3) Three hundred eighty-seven thousand one hundred forty-nine dollars (\$387,149) shall be allocated to the Division of Mental Health, Mental Retardation, and Substance Abuse Services to be allocated proportionately as needed among existing group homes for emotionally disturbed children to meet the additional costs due to the Federal Fair Labor Standards Act.

—MENTAL HEALTH SERVICES FOR CHILDREN

Sec. 136. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services, the sum of two hundred twelve thousand eight hundred fifty-one dollars (\$212,851) shall be used in the following manner:

(1) One hundred ten thousand dollars (\$110,000) to be used to continue operation of Haven House Boys #2 group home in Wake County; and

(2) The balance to be allocated proportionately as needed among existing group homes for emotionally disturbed children to meet the additional costs due to the Federal Fair Labor Standards Act.

—WILLIE M. FUNDS REVERT

Sec. 137. (a) All funds appropriated for Willie M. class children for fiscal years prior to the 1986-87 fiscal year that are not expended or encumbered by June 30, 1986, shall revert to the General Fund.

(b) This section shall become effective June 30, 1986.

—ACCESS, NORTH CAROLINA

Sec. 138. (a) The Department of Human Resources shall promote travel accessibility for disabled persons in this State. The funds provided from the "Personalized Registration Plate Fund" by G.S. 20-81.3(c)(3), to the account of the Department of Human Resources, do not revert but shall continue to be used to collect and update site information on travel attractions designated by the Department of Commerce in their publications. Both the Department of Human Resources and the Department of Commerce shall report their annual work plan and quarterly report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the status of their activities and accomplishments regarding the publication ACCESS, NORTH CAROLINA.

(b) This section shall become effective June 30, 1986.

—AUTISTIC CHILDREN'S SOCIETY FUNDS

Sec. 139. Of the funds appropriated to the Department of Human Resources in Section 2 of this act, the sum of sixty thousand dollars (\$60,000) shall be allocated to the North Carolina Society for Autistic Adults and Children for operating expenses for the Autistic Children's Camp; and the sum of eighteen thousand dollars (\$18,000) shall be used for assistance in staffing the high functioning autistic adult group home in Raleigh.

—SENIOR CITIZENS CENTERS

Sec. 140. Section 105(a) of Chapter 479 of the 1985 Session Laws is amended in the language preceding subdivision (1) as follows: (i) by adding after the phrase "senior citizen centers," the phrase "and other Title III B services,"; and (ii) by adding after the word "allocated" the phrase "in each year of the biennium".

—CANCER REGISTRY

Sec. 141. Of the funds appropriated to the Department of Human Resources, Division of Medical Assistance, up to one hundred twenty-five thousand dollars (\$125,000) may be transferred in fiscal year 1986-87 to the Division of Health Services for the State Cancer Registry Program to be disbursed after the program has been designed and after consultation with the North Carolina Hospital Association and reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

PART XI.—NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

—USE COMMUNITY SERVICE WORKERS FOR STATE PARKS DEVELOPMENT/REPAIR

Sec. 142. The Department of Natural Resources and Community Development shall maximize the use of community service workers for development and repair of State parks. The Department shall submit its plan for doing so, before October 1, 1986, and shall report quarterly on the implementation of the plan, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—COMMUNITY ACTION AGENCIES/ADMINISTRATIVE COSTS

Sec. 143. Funds are appropriated in Section 2 of this act to the Department of Natural Resources and Community Development for the administration of Community Service Block Grant Programs. Up to fifty percent (50%) of these funds may be used, at the discretion of each Community Action Agency board of directors, to defray the administrative expense of programs other than Community Service Block Grant Programs.

—JAMES K. POLK STATE OFFICE BUILDING

Sec. 144. Section 128 of Chapter 479 of the 1985 Session Laws is repealed.

—REGIONAL OFFICE RENTS

Sec. 145. The funds appropriated to the Department of Natural Resources and Community Development in Section 2 of this act for increases in rent at regional offices operated and administered by the Department of Natural Resources and Community Development may be used only for that purpose. Any funds not needed for that purpose shall revert to the General Fund.

—COASTAL AREA MANAGEMENT SPECIAL FUND REVERSION

Sec. 146. Effective June 30, 1986, all funds in the Coastal Area Management Permit Violations Special Fund Account shall revert to the General Fund.

—MARINE FISHERIES SEAFOOD DEVELOPMENT PROGRAM TRANSFER

Sec. 147. The Marine Fisheries Seafood Development Program is transferred from the Department of Natural Resources and Community Development to the Department of Agriculture, Marketing Division. The transfer has all the elements of a Type I transfer as defined by G.S. 143A-6(a).

—RURAL WATER SYSTEMS ASSISTANCE

Sec. 148. Of the funds appropriated to the Department of Natural Resources and Community Development in Section 2 of this act, the sum of seventy-five thousand dollars (\$75,000) shall be allocated to the North Carolina Rural Water Association, Inc., to provide training and technical assistance to small and rural water systems in North Carolina.

—AGRICULTURE COST SHARE PROGRAM FOR NONPOINT SOURCE POLLUTION CONTROL

Sec. 149. (a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

“Part 9. Nonpoint Source Pollution Control Program.

“§ 143-215.74. *Agriculture cost share program.*—(a) There is created the Agriculture Cost Share Program for Nonpoint Source Pollution Control. The program shall be created, implemented, and supervised by the Soil and Water Conservation Commission.

(b) The program shall be subject to the following requirements and limitations:

- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.
- (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
- (3) Priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission and the Environmental Management Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
- (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
- (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sediment control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, and animal waste managements systems and application.

- (6) State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost (which may include in-kind support) with a maximum of fifteen thousand dollars (\$15,000) per year to each applicant.

(c) The program shall be reviewed, prior to implementation, by the Committee created by G.S. 143-215.74B. The Technical Review Committee shall meet quarterly to review the progress of this program.

“§ 143-215.74A. *Program participation.*—Participation in the program shall be voluntary.

All participants in the program shall be required to match State funds at the same rate, and assistance from the Agriculture Extension Service at North Carolina State University shall also be used.

“§ 143-215.74B. *Committee established.*—Detailed plans for implementing the program shall be reviewed and suggested changes and reasons therefor shall be given by a committee consisting of the Master of the North Carolina State Grange, President of the North Carolina Farm Bureau Federation, the North Carolina Commissioner of Agriculture, the Dean of the School of Agriculture and Life Sciences at North Carolina State University, the Chairman of the State Soil and Water Conservation Commission, and the President of the North Carolina Association of Soil and Water Conservation Districts. The committee shall review the program prior to expenditure of any funds for the program. Certification documenting the committee's review of the program shall be made in writing to the Speaker of the House of Representatives, the President of the Senate, and Chairmen of the Appropriations Committees of the Senate and the House of Representatives.”

(b) Of the funds appropriated to the Department of Natural Resources and Community Development in Section 2 of this act, the sum of three million dollars (\$3,000,000) shall be used to fund the Agriculture Cost Share Program for Nonpoint Source Pollution Control.

—HAZARDOUS WASTE REGULATION STUDY

Sec. 150. The General Assembly finds that the regulation of hazardous wastes, radioactive wastes, and other environmental pollutants is divided among several different State agencies. Because of this division, the State has not developed an integrated program for regulating wastes and, in an emergency, local authorities do not know which agency to contact. A legislative committee shall conduct a study of whether to consolidate the regulation of environmental pollutants in a single agency and whether to create a State environmental protection agency.

The committee shall consist of five members appointed by the President of the Senate and five members appointed by the Speaker of the House of Representatives. The committee shall present a report containing their findings and recommendations to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—COUNCIL OF GOVERNMENTS FUNDING

Sec. 151. (a) Of the funds appropriated by Section 2 of this act to the Department of Natural Resources and Community Development, nine hundred ninety thousand dollars (\$990,000) shall only be used as provided

by this section. Each regional council of government is allocated an amount up to fifty-five thousand dollars (\$55,000) with the actual amount calculated as provided in subsection (b) of this section.

(b) The funds shall be allocated as follows: A share of the maximum fifty-five thousand dollars (\$55,000) shall be allocated to each county and smaller city based on the 1980 Federal Census population of that county (less the population of any larger city within that county) or smaller city, divided by the sum of the total population of the region (less the population of larger cities within that region) and the total population of the region living in smaller cities. Population totals shall be according to the 1980 Federal Census, except to account for cities incorporated since the return of that census, and in such case, the most recent annual estimate of the Office of State Budget and Management shall be used. Those funds shall be paid to the regional council of government to which that county or city belongs upon receipt by the Office of a resolution of the governing board of the county or city requesting release of the funds. If any city or county does not so request payment of funds by June 30, 1987, that share of the allocation shall revert to the General Fund.

(c) A council of governments may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

(d) Funds appropriated by this section may not be used for payment of dues or assessments by the member governments, and may not supplant funds appropriated by the member governments.

(e) As used in this section "Larger City" means an incorporated city with a population of 50,000 or over. "Smaller City" means any other incorporated city.

—COASTAL WATER QUALITY STUDY

Sec. 152. The Legislative Research Commission may perform a comprehensive study and reevaluation of coastal water quality classifications. The Commission may also evaluate existing and proposed rules of the Environmental Management Commission, Coastal Resources Commission, the Marine Fisheries Commission, and any other State agency regarding coastal water quality. The Commission may report its findings and any recommended legislation to the 1987 General Assembly.

—REMOVE RESTRICTION ON WILDLIFE RESOURCES COMMISSION'S USE OF SALES TAX FUNDS

Sec. 153. The second sentence of Section 88(c) of Chapter 1116 of the 1983 Session Laws, Regular Session 1984, is repealed.

PART XII.—AGRICULTURE

—BROILER BREEDER RESEARCH PROGRAM/TRANSFER OF FUNDS

Sec. 154. Pursuant to G.S. 146-30, there is transferred from the Department of Agriculture timber sales capital improvement account to the Department of Agriculture for the 1986-87 fiscal year the sum of one hundred seventy-five thousand dollars (\$175,000). These funds shall be used to complete the broiler breeder research program at the Piedmont Research Station.

—REMOVE 50% CAP ON FUNDING MEAT AND POULTRY INSPECTION

Sec. 155. (a) G.S. 106-549.29(b) is amended by deleting the last sentence thereof.

(b) G.S. 106-549.52(b) is amended by deleting the last sentence thereof.

(c) This section is effective upon ratification and also applies to the State budget for fiscal year 1985-86.

—UNION COUNTY FARMERS MARKET/TRANSFER OF FUNDS

Sec. 156. (a) Section 70 of Chapter 757 of the 1985 Session Laws is amended by deleting the language "Union County Agricultural Center" and substituting "Union County Farmers' Market" and by adding the following:

"This appropriation does not revert at the end of the 1985-86 fiscal year but shall remain available for expenditure until June 30, 1987."

(b) This section shall become effective June 30, 1986.

—TRANSFER FROM CAPITAL

Sec. 157. Of the funds appropriated to the Department of Agriculture for horse stalls at the Asheville Horse and Livestock Facility in Section 4 of this act, the sum of forty thousand dollars (\$40,000) shall be transferred from capital to operating to help operate the Asheville Horse and Livestock Facility.

—NORTHEASTERN FARMERS MARKET

Sec. 158. (a) Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 59.

"Northeastern North Carolina
Farmers Market Commission.

"§ 106-719. *Purpose.*—The purpose of this Article is to establish a farmers market in northeastern North Carolina that will facilitate the sale and marketing of agricultural commodities produced in northeastern North Carolina, encourage increased production and sale of these agricultural commodities, and encourage the cultivation and diversification of agricultural commodities in northeastern North Carolina.

"§ 106-720. *Northeastern Farmers Market Commission established; membership.*—(a) There is established the Northeastern North Carolina Farmers Market Commission. The Commission shall be located administratively in the Department of Agriculture but shall exercise its exclusive powers and functions, herein granted, independently of the Commissioner of Agriculture and the Board of Agriculture.

(b) The Commission shall consist of nine members, as follows:

- (1) The Commissioner of Agriculture;
- (2) Four members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121; and
- (3) Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom shall be designated to serve as chairman as provided in subsection (d) of this section.

(c) Members of the Commission appointed by the General Assembly shall serve for staggered four-year terms. To achieve staggered terms, the initial terms of two members appointed by the General Assembly upon the recommendation of the President of the Senate and two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be for two years.

(d) The person designated by the General Assembly as chairman pursuant to subsection (b)(3) of this section shall call the organizational meeting of the Commission and shall serve as chairman until the Commission elects its own chairman. Thereafter, the Commission shall elect its own chairman who shall serve at the pleasure of the Commission.

(e) The Commission shall meet on a quarterly basis and otherwise upon the call of the chairman.

(f) Members of the Commission who are not State officers or employees shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5. Members who are State officers or employees shall be reimbursed for travel and subsistence in accordance with G.S. 138-6.

“§ 106-721. *Powers and duties of the Commission; powers and duties of the Commissioner of Agriculture and the Board of Agriculture.*—(a) The Commission shall:

- (1) select the site for the Northeastern North Carolina Farmers Market;
- (2) make all programming decisions on the construction of the Farmers Market; and
- (3) advise the Commissioner of Agriculture on the operation of the Farmers Market.

(b) The Commissioner shall:

- (1) Appoint an advisory board consisting of one member from each of the counties the Commissioner determines will be served by the Northeastern North Carolina Farmers Market. This advisory board shall advise the Northeastern North Carolina Farmers Market Commission.
- (2) Operate the Northeastern North Carolina Farmers Market.”

(b) Of the funds appropriated in Section 4 of this act to the Department of Agriculture, the sum of one million eight hundred fifty thousand dollars (\$1,850,000) shall be used for the establishment of the Northeastern North Carolina Farmers Market and for the expenses of the Northeastern North Carolina Farmers Market Commission. Of these funds, no more than one hundred thousand dollars (\$100,000) shall be used for the operating expenses of the Commission.

—SOUTHEASTERN FARMERS MARKET

Sec. 159. (a) Chapter 106 of the General Statutes is amended by adding a new Article to read:

“Article 60.

“Southeastern North Carolina
Farmers Market Commission.

“§ 106-726. *Purpose.*—The purpose of this Article is to establish a farmers market in southeastern North Carolina that will facilitate the sale

and marketing of agricultural commodities produced in southeastern North Carolina, encourage increased production and sale of these agricultural commodities, and encourage the cultivation and diversification of agricultural commodities in southeastern North Carolina.

“§ 106-727. *Southeastern Farmers Market Commission established; membership.*—(a) There is established the Southeastern North Carolina Farmers Market Commission. The Commission shall be located administratively in the Department of Agriculture but shall exercise its exclusive powers and functions, herein granted, independently of the Commissioner of Agriculture and the Board of Agriculture.

(b) The Commission shall consist of nine members, as follows:

- (1) The Commissioner of Agriculture;
- (2) Four members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121, one of whom shall be designated to serve as chairman as provided in subsection (d) of this section; and
- (3) Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(c) Members of the Commission appointed by the General Assembly shall serve for staggered four-year terms. To achieve staggered terms, the initial terms of two members appointed by the General Assembly upon the recommendation of the President of the Senate and two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be for two years.

(d) The person designated by the General Assembly as chairman pursuant to subsection (b)(2) of this section shall call the organizational meeting of the Commission and shall serve as chairman until the Commission elects its own chairman. Thereafter, the Commission shall elect its own chairman who shall serve at the pleasure of the Commission.

(e) The Commission shall meet on a quarterly basis and otherwise upon the call of the chairman.

(f) Members of the Commission who are not State officers or employees shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5. Members who are State officers or employees shall be reimbursed for travel and subsistence in accordance with G.S. 138-6.

“§ 106-728. *Powers and duties of the Commission; powers and duties of the Commissioner of Agriculture and the Board of Agriculture.*—(a) The Commission shall:

- (1) select the site for the Southeastern North Carolina Farmers Market;
- (2) make all programming decisions on the construction of the Farmers Market; and
- (3) advise the Commissioner of Agriculture on the operation of the Farmers Market.

(b) The Commissioner shall:

- (1) Appoint an advisory board consisting of one member from each of the counties the Commissioner determines will be served by the Southeastern North Carolina Farmers Market. This advisory

board shall advise the Southeastern North Carolina Farmers Market Commission.

(2) Operate the Southeastern North Carolina Farmers Market."

(b) Of the funds appropriated in Section 4 of this act to the Department of Agriculture, the sum of one million eight hundred fifty thousand dollars (\$1,850,000) shall be used for the establishment of the Southeastern North Carolina Farmers Market and for the expenses of the Southeastern North Carolina Farmers Market Commission. Of these funds, no more than one hundred thousand dollars (\$100,000) shall be used for the operating expenses of the Commission.

PART XIII.—COMMERCE

—INCUBATOR FACILITIES PROGRAM FUNDS DO NOT REVERT

Sec. 160. (a) Funds appropriated to the Technological Development Authority for the 1985-86 fiscal year for grants to establish incubator facilities do not revert to the General Fund at the end of the 1985-86 fiscal year but shall remain available for expenditure by the Authority until July 1, 1987.

(b) This section shall become effective June 30, 1986.

—TECHNOLOGICAL DEVELOPMENT AUTHORITY LEASES

Sec. 161. (a) The first sentence of G.S. 143B-471.4(e) is rewritten to read: "The incubator facility and any improvements shall be owned by a county, city, political subdivision, nonprofit corporation, or charitable or educational trust, but may be leased to the grant recipient."

(b) This section shall become effective July 21, 1983.

—HAYWOOD COUNTY INCUBATOR FACILITY

Sec. 162. Of the funds appropriated in Section 2 of this act to The Department of Commerce for the Technological Development Authority, the sum of fifteen thousand dollars (\$15,000) shall be used for the operating expenses of the incubator facility in Haywood County.

—BIOTECHNOLOGY CENTER FUNDS/DO NOT REVERT

Sec. 163. The funds appropriated in Section 2 of this act to the Department of Commerce for support of the Biotechnology Center's research, development, and marketing in North Carolina do not revert but shall remain available until expended for these purposes.

—ANSON COUNTY INDUSTRIAL DEVELOPMENT

Sec. 164. Of the funds appropriated to the Department of Commerce in Section 2 of this act, the sum of twenty-five thousand dollars (\$25,000) shall be allocated to the Anson County Board of Commissioners to support industrial recruitment and development in Anson County.

**—HAZARDOUS WASTE TREATMENT COMMISSION/
COMPENSATION OF MEMBERS**

Sec. 165. The last sentence of G.S. 143B-470.3 is rewritten to read:

"The members of the Treatment Commission shall be compensated for their services at the rate of one hundred fifty dollars (\$150.00) per day and shall receive travel expenses in accordance with G.S. 138-5; the members may not receive a subsistence allowance."

**—HAZARDOUS WASTE TREATMENT COMMISSION TIMETABLE
DELAYED**

Sec. 166. (a) The second sentence of G.S. 143B-470.4(b) is amended by deleting the date "July 1, 1986" and substituting "April 1, 1987".

(b) The sixth sentence of G.S. 143B-470.4(b) is amended by deleting the date "January 1, 1987" and substituting "September 1, 1987".

PART XIV.—INSURANCE

—MEDICAL DATABASE COMMISSION FUNDS/DO NOT REVERT

Sec. 167. (a) Of the funds appropriated to the Department of Insurance for the 1985-86 fiscal year in Section 208(e) of Chapter 757 of the 1985 Session Laws, the sum of sixty thousand dollars (\$60,000) does not revert at the end of the 1985-86 fiscal year but shall remain available for expenditure until June 30, 1987.

(b) This section shall become effective June 30, 1986.

—FIRE INSURANCE TAX DISBURSEMENT

Sec. 168. G.S. 118-5 is amended as follows:

(1) By rewriting the catch line to read: "*Disbursement of funds by Insurance Commissioner.*";

(2) By deleting the phrase "five percent (5%)" and substituting the phrase "three percent (3%); and

(3) By deleting the phrase "purposes, and the" and substituting the following: "purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the money so collected from the insurance companies, corporations, or associations, as aforesaid, and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 118-7. The".

PART XV.—CULTURAL RESOURCES

—ARTS COUNCIL FUNDS

Sec. 169. Of the funds appropriated to the Department of Cultural Resources, North Carolina Arts Council Division, in Section 2 of this act, the sum of one million dollars (\$1,000,000) in expansion budget funds shall be allocated for the Grassroots Arts Program, Grants to Local Communities, Aid to Outdoor Drama and Professional Theater, the Regional Arts Resources Program, and costs necessary for the development of local arts programs.

At least seven hundred fifty thousand dollars (\$750,000) of these funds shall be used in the Grassroots Arts Program and the Grants to Local Communities Program.

It is the intent of the General Assembly that priority for any of these expansion budget funds that are allocated to the Regional Arts Resources Program be given to organizations that provide significant services to areas outside of their home counties through touring or that otherwise serve the State by making their programs and services available outside of their home counties.

The General Assembly encourages the Arts Council to fund programs that make the arts available to citizens of North Carolina who have previously had little opportunity to experience the arts.

The costs for the development of local arts programs may not exceed eighty-five thousand dollars (\$85,000) of the total expansion budget funds appropriated to the Arts Council for the 1986-87 fiscal year.

—MUSEUM OF ART OUTREACH PROGRAMS

Sec. 170. Expansion budget funds appropriated in Section 2 of this act to the North Carolina Museum of Art are to be used to increase and

expand its services outside of the Museum in Raleigh. The Museum shall develop a program to make available works of art to art groups for showings throughout the State. Outreach Programs that include actual pieces of collections shall be implemented so as to introduce new audiences to art and to the North Carolina Museum of Art. The special exhibition programs shall be enriched and expanded by presenting exhibitions that would interest and attract citizens of all ages to visit the museum in increasing numbers.

—NO DEPARTMENTAL SUPERVISION OF DIRECT APPROPRIATIONS

Sec. 171. (a) G.S. 121-11 is amended as follows:

(1) In the proviso in the first paragraph, by rewriting the part of the proviso that precedes subdivision (1) to read: "Provided, that the Department of Cultural Resources may not make any acquisition, maintenance, preservation, restoration, or development of any property, nor any assistance for any property, nor any contribution for these purposes, until:";

(2) In the second and fourth paragraphs by adding after the word "extended" each time it appears the phrase "by the Department of Cultural Resources"; and

(3) In the proviso in the third paragraph by rewriting the part of the proviso that precedes subdivision (1) to read: "Provided, that the Department of Cultural Resources may not make any assistance or contribution from State funds for a program or project until:".

(b) G.S. 121-12 is amended as follows:

(1) In subsection (c) by adding after the word "requested" the phrase "from the Department of Cultural Resources", and by adding after the word "appropriations" the phrase "to be administered by the Department of Cultural Resources";

(2) In subsection (c1) by adding after the word "requested" the phrase "from the Department of Cultural Resources", and by adding after the word "appropriations" the phrase "to be administered by the Department of Cultural Resources"; and

(3) In subsection (d) by adding after the phrase "State funds" each time it appears the phrase "to the Department of Cultural Resources".

(c) G.S. 121-12.1 is amended as follows:

(1) In the first sentence by adding after the word "appropriations" the phrase "to the Department of Cultural Resources" and by deleting the phrase "by the State";

(2) In the second sentence by deleting the word "by" and substituting the phrase "received by it from" and by adding before the word "them" the phrase "the Department for"; and

(3) In the last sentence by adding after the word "appropriations" the phrase "to the Department of Cultural Resources".

(d) G.S. 121-12.2 is amended as follows:

(1) In the first sentence by deleting the word "shall" and substituting the word "may";

(2) In the second sentence by adding after the word "government" the phrase "except the General Assembly"; and

(3) In the third paragraph by adding after the word “grants” the phrase “through the Department”.

(e) G.S. 143-31.2 is amended by rewriting the part of the section preceding the designation “(i)” to read:

“The Department of Cultural Resources may not expend any State funds for the acquisition, preservation, restoration, or operation of historic or archeological real and personal property, and the Director of the Budget may not allot any appropriations to the Department of Cultural Resources for a particular historic site until”.

(f) G.S. 143B-62 is amended as follows:

(1) In subdivision (1)e. by adding after the word “requested” the phrase “from the Department of Cultural Resources”; and

(2) In subdivision (2)f. and (2)f1. by adding after the word “appropriations” each time it appears the phrase “through the Department of Cultural Resources”.

(g) Notwithstanding any other provision of law, the following statutes do not apply to appropriations which the General Assembly has directed the Department of Cultural Resources to allocate to specific units of local government or private nonprofit agencies: G.S. 121-11; 121-12(c), (c1), and (d); 121-12.1; 121-12.2; 143-31.2; and 143B-62(2)(f) and (f1).

—C. S. BROWN CULTURAL CENTER FUNDS.

Sec. 172. Of the funds appropriated to the Department of Cultural Resources in Section 2 of this act, the sum of one hundred thousand dollars (\$100,000) shall be paid directly to Hertford County for the renovation of Brown Hall as the Dr. Calvin Scott Brown Cultural Center. This center will serve the entire Roanoke-Chowan region of the State.

—ROANOKE ISLAND HISTORICAL ASSOCIATION

Sec. 172.1. Of the funds appropriated to the Department of Cultural Resources in Section 2 of this act, the sum of fifty thousand dollars (\$50,000) allocated to the Old Chowan County Courthouse shall be reallocated to the Roanoke Island Historical Association for administrative offices and operating expenses.

—ANDREW JACKSON MEMORIAL FUNDS/DO NOT REVERT

Sec. 173. (a) Funds appropriated to the Office of State Budget and Management for the 1985-86 fiscal year in Section 30 of Chapter 757 of the 1985 Session Laws for the Andrew Jackson Memorial do not revert at the end of the 1985-86 fiscal year but shall remain available for expenditure until June 30, 1987. Funds appropriated in Section 30 of Chapter 757 of the 1985 Session Laws for the Andrew Jackson Memorial are not subject to any requirement that they be matched with non-State funds.

(b) This section shall become effective June 30, 1986.

PART XVI.—GOVERNOR, BUDGET OFFICE, AND HOUSING
FINANCE AGENCY

—GOVERNOR TO SUBMIT PLAN TO DECREASE RELIANCE ON
THE HIGHWAY PATROL FOR SECURITY

Sec. 174. The Office of the Governor is requested to submit to the 1987 General Assembly by February 1, 1987, a plan to provide for the security of the Governor, including an estimate of the cost of implementing the plan. The plan may provide for the employment and

training of security personnel other than members of the Highway Patrol, so that the members of the Highway Patrol currently providing security for the Governor may return to duty on the highways of the State.

—PERMIT DEVIATIONS FROM CERTAIN PROVISIONS OF THE EXECUTIVE BUDGET ACT

Sec. 175. The first paragraph of Section 161 of Chapter 479 of the 1985 Session Laws, as amended by Section 2 of Chapter 851 of the 1985 Session Laws, is amended by deleting the date "July 30, 1986" and substituting "June 30, 1987".

—TRANSFERS OF CERTAIN FUNDS AUTHORIZED

Sec. 176. In order to assure maximum utilization of funds in county departments of social services, county or district health agencies, and area mental health, mental retardation and substance abuse authorities, the Director of the Budget is authorized to transfer excess funds appropriated to a specific service or program/fund (whether specified in a block grant plan or general fund appropriation) into another service or program/fund for local services within the budget of the respective State agency.

—EXPENDITURES FOR DISAPPROVED PROGRAMS PROHIBITED

Sec. 177. (a) Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-16.2. *No expenditures for purposes for which the General Assembly has considered but not enacted an appropriation.*—No funds from any source, except for gifts and grants, may be expended for any purpose for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period. For the purpose of this section, the General Assembly has considered a purpose when that purpose is included in a bill or petition or when any committee of the Senate or the House of Representatives deliberates on that purpose."

(b) This section is effective upon ratification.

—DISBURSEMENT OF ALLOCATED FUNDS

Sec. 178. Where the General Assembly has directed that funds appropriated to a State agency for fiscal year 1986-87 be allocated to a specific unit of local government or a private nonprofit entity, the funds shall be disbursed directly to the specified unit of local government or private nonprofit entity.

—LIMIT USE OF CONTINGENCY AND EMERGENCY FUNDS

Sec. 179. G.S. 143-12 is amended by adding a new paragraph after the second paragraph to read:

"Funds allocated from the contingent or emergency appropriation may be used only for the purpose for which they were allocated and may not be reallocated for another purpose by the Governor and the Council of State. If the funds are not spent or encumbered for the purpose for which they were allocated by the end of the fiscal biennium and if the Governor and the Council of State do not reallocate them for that same purpose, the funds shall revert to the fund from which the contingent or emergency appropriation was made. Also, if the funds are not needed for the purpose for which they were allocated, the funds shall revert to the fund from which the contingent or emergency appropriation was made."

—UNUSED LOCAL FUNDS REPAID

Sec. 180. The Executive Budget Act, Article 1, of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-31.4. (a) Whenever funds have been appropriated by an act ratified before January 1, 1985, directly by the provisions of that act to a specific non-State agency, but those funds are not expended or encumbered by that agency by June 30, 1987, the agency shall no later than July 31, 1987, repay to the State all sums not so expended or encumbered. For the purposes of this section, agency includes any corporation, association, board, commission, city, county, local school administrative unit or board of education, or local commission, but does not include a community college, technical college, or technical institute.

(b) Any such agency so appropriated funds for fiscal year 1980-81, 1981-82, 1982-83, 1983-84 or 1984-85 shall report to the State Budget Office no later than December 31, 1986, the amount of any such funds not yet expended or encumbered. The State Budget Office shall monthly transmit a copy of such reports to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division."

—RESERVE FOR ADVANCE PLANNING

Sec. 181. The Division of State Construction shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on how it intends to spend funds from the Reserve for Advance Planning at least 45 days before it spends the funds.

The Division of State Construction shall also report the results of any project on which it uses funds from the Reserve for Advance Planning to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

Up to five hundred thousand dollars (\$500,000) from the Reserve for Advance Planning may be used for the advance planning costs of the Museum of Natural History.

—RESERVE FOR OIL OVERCHARGE FUNDS

Sec. 182. (a) The State of North Carolina received oil overcharge funds in the case of *United States v. Exxon Corporation* and was ordered by the court to expend these funds in five designated areas to afford restitution to the citizens of the State. Because the final order in that action was not filed until June 10, 1986, the General Assembly of North Carolina has had an opportunity to identify only two critical and urgent needs that may be met with these funds. The General Assembly has not had an opportunity to adequately determine the priorities appropriate and consistent with the purposes permitted by the court to achieve with the remainder of these funds the restitutionary purpose for the citizens of the State intended by the court. Therefore, to achieve that restitutionary purpose and to keep the remainder of the funds and interest earned intact until the General Assembly has an opportunity to adequately determine the best way to use these funds, there is established a Special Reserve for Oil Overcharge Funds. It is the intent of the General Assembly to allocate funds from the reserve for permitted purposes early in the 1987 Regular Session of the General Assembly.

(b) There is appropriated from the interest on funds received in the case of *United States v. Exxon* the sum of one million dollars (\$1,000,000) for the 1986-87 fiscal year to the Low Income Weatherization Program and

the sum of six hundred forty thousand dollars (\$640,000) for low income energy assistance payments in the Low Income Energy Block Grant Program. These funds shall be disbursed and spent in accordance with applicable federal court orders and other related federal law and regulations. All funds received in the case of United States v. Exxon and any remaining interest or investment funds earned on account of these funds are appropriated to the Special Reserve for Oil Overcharge Funds. Also, all funds received by the State of North Carolina during the 1986-87 fiscal year in other oil overcharge cases to afford restitution to the citizens of the State are appropriated to the Special Reserve for Oil Overcharge Funds. Funds from the special reserve may be expended only as authorized by the General Assembly.

(c) All interest or income received accruing from all deposits or investments of cash balances in the special reserve shall be credited to the special reserve.

—DISBURSEMENT OF FUNDS FROM THE RESERVE FOR THE IMPLEMENTATION OF THE ADMINISTRATIVE PROCEDURE REVISION

Sec. 183. The Office of State Budget and Management shall disburse funds from the Reserve for the Implementation of the Administrative Procedure Revision as required for the operation of the Office of Administrative Hearings and the Administrative Rules Review Commission.

—REGION K COUNCIL OF GOVERNMENTS FUNDS

Sec. 184. Of the funds appropriated to the Office of State Budget and Management in Section 2 of this act for Councils of Governments, the sum of one hundred sixty-six thousand dollars (\$166,000) shall be allocated to the Region K Council of Governments to match a federal grant to provide services and assistance to local units of government in economic and community development activities. This appropriation shall be in addition to the allocation to the Region K Council of Governments from State funds for Councils of Government provided to the Department of Natural Resources and Community Development in Section 2 of this act and allocated in accordance with Section 151 of this act.

—HOUSING FINANCE AGENCY INVESTMENT FUNDS

Sec. 185. (a) Section 149 of Chapter 479 of the 1985 Session Laws is amended by designating the existing language as subsection (a) and adding a new subsection to read:

“(b) G.S. 122A-11 is amended by deleting the last sentence and substituting the following:

‘Any moneys received pursuant to the authority of this Chapter and any other moneys available to the Agency for investment may be invested:

(1) As provided in G.S. 159-30, except that for purposes of G.S. 159-30(b) the Agency may deposit moneys at interest in banks or trust companies outside as well as in this State, provided any such moneys at deposit outside this State are collateralized to the same extent and manner as if at deposit in this State;

(2) In evidences of ownership of, or fractional undivided interests in, future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest

on which are guaranteed by the United States government, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state in the capacity of custodian;

(3) In obligations which are collateralized by mortgage pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association;

(4) In a trust certificate or similar instrument evidencing an equity investment in a trust or other similar arrangement which is formed for the purpose of issuing obligations which are collateralized by mortgage pass-through or participation certificates guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association; and

(5) In repurchase agreements with respect to either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States government if entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a Federal Reserve Bank, or any commercial bank, trust company or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if

- a. such obligations that are subject to such repurchase agreement are delivered (in physical or in book entry form) to the Agency, or any financial institution serving either as trustee for obligations issued by the Agency or as fiscal agent for the Agency or the State Treasurer or are supported by a safekeeping receipt issued by a depository satisfactory to the Agency, provided that such repurchase agreement must provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price;
- b. a valid and perfected first security interest in the obligations which are the subject of such repurchase agreement has been granted to the Agency or its assignee or book entry procedures, conforming, to the extent practicable, with federal regulations and satisfactory to the agency have been established for the benefit of the Agency or its assignee;
- c. such securities are free and clear of any adverse third party claims; and
- d. such repurchase agreement is in a form satisfactory to the Agency.”

(b) This section is effective upon ratification.

PART XVII.—ADMINISTRATION

—PUBLIC TELECOMMUNICATIONS POSITION/MATCH REQUIREMENT

Sec. 186. Of the funds appropriated to the Department of Administration, Agency for Public Telecommunications, in Section 2 of this act, the sum of seventy-four thousand one hundred eighty-three dollars (\$74,183) shall be used for a Media Technician and support

necessary for OPEN/NET programming, provided fifty thousand dollars (\$50,000) is raised for this purpose from non-State funds. If matching funds are not raised for this purpose, the State funds shall revert to the General Fund.

—SHELTER PROGRAM FUNDS

Sec. 187. Of the funds appropriated to the Department of Administration in Section 2 of this act for grants for the operation of shelter programs for battered women, the sum of one hundred thirty-five thousand dollars (\$135,000) shall be allocated according to the following schedule:

(1) Task Force on Family Violence, R.E.A.C.H., which serves Graham, Clay and Cherokee Counties	\$29,000
(2) REACH of Haywood County, Inc.	20,000
(3) Mainstay, Inc., which is located in Henderson County	20,000
(4) R.E.A.C.H. of Jackson County, Inc.	15,000
(5) Swain County Safe, Inc.	9,000
(6) Shelter Available for Family Emergency (SAFE), Inc., of Transylvania County	15,000
(7) Steps to H.O.P.E., Inc., which is located in Polk County	10,000
(8) Respect, Inc., which is located in Macon County	17,000

Programs that receive an allocation pursuant to this section may not also receive a State grant for the 1986-87 fiscal year from the Department of Administration.

—SALE OR LEASE OF REAL PROPERTY/VALUE

Sec. 188. (a) G.S. 146-29.1 is rewritten to read:

“§ 146-29.1. *Lease or sale of real property for less than fair market value.*—(a) Real property owned by the State or any State agency may not be sold, leased, or rented at less than fair market value to any private entity that operates, or is established to operate, for profit.

(b) Real property owned by the State or by any State agency may be sold, leased, or rented at less than fair market value to a public entity. ‘Public entity’ means a county, municipal corporation, local board of education, community college, special district or other political subdivision of the State and the United States or any of its agencies. Any such sale, lease, or rental shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office, with the details of such transaction.

(c) Real property owned by the State or by any State agency may be sold, leased, or rented at less than market value to a private, nonprofit corporation, association, organization or society upon a determination by the Department of Administration that such transaction is in consideration of public service rendered or to be rendered. The transaction shall be reported in detail to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office. In the case of a private, nonprofit corporation,

association, organization, or society that engages in some for-profit activities, the amount of the sale, lease, or rent shall be not less than the fair market value of the property times the percentage of the total activities of the corporation, association, organization, or society that are for profit.

(d) Any sale, lease, or rental of real property made in conformity with the provisions of this section is not a violation of G.S. 66-58(a).

(e) All sales, leases, or rentals, prior to the effective date of this section, of real property owned by the State or any State agency are not invalid because of a conflict with G.S. 66-58(a) or with a prior version of this section, but any renewal of any such lease or rental agreement on or after the effective date of this section, shall conform to the requirements of this section."

(b) This section is effective upon ratification.

—OIL RE-REFINERY LOANS

Sec. 189. (a) Of the funds appropriated to the Department of Administration in Section 2 of this act, the sum of two hundred seventy-two thousand three hundred thirty-five dollars (\$272,335) shall be used to repay a loan for the Oil Re-refinery Program from Unpledged Parking Lot Funds of the Department of Administration, Auxiliary Services Fund.

(b) The Department of Administration is not required to repay a loan of two hundred thousand dollars (\$200,000) for the Oil Re-refinery Program from the Telephone Service Funds of the Department of Administration, Auxiliary Services Fund.

(c) Notwithstanding Section 50.55 of Chapter 802, 1977 Session Laws, the Department of Administration is not required to refund to the General Fund the sum of one million three hundred thousand dollars (\$1,300,000) appropriated by the 1977 General Assembly for the Oil Re-refinery Program.

(d) The Department of Administration is not required to repay a loan of one hundred seventy-five thousand dollars (\$175,000) for the Oil Re-refinery Program from the Contingency and Emergency Fund.

—COORDINATION OF STATE LABS

Sec. 190. The General Assembly finds that proposed plans exist for the construction or renovation of laboratory space in the Departments of Human Resources, Natural Resources and Community Development, Justice, and Agriculture and that these departments may have common requirements for laboratory space, equipment, supplies, land, storage space, waste disposal facilities, security, and access. The plans for the construction or renovation of laboratory space for these departments should be coordinated to promote economy and efficiency before funds are spent for laboratory space. Therefore, the cochairmen of the Joint Legislative Commission on Governmental Operations shall appoint a subcommittee to study the need for laboratory space in State government and the best way to meet that need. The subcommittee may, with the approval of the cochairmen of the Legislative Services Commission, use funds available to the General Assembly to contract with outside consultants to assist it in the study. The subcommittee shall report to the

Joint Legislative Commission on Governmental Operations before the convening of the 1987 General Assembly.

Sec. 191. (a) Funds in the amount of four hundred thousand dollars (\$400,000) for the 1985-86 fiscal year appropriated in Section 4 of Chapter 480 of the 1985 Session Laws to the Department of Natural Resources and Community Development for a toxic metal and organic analytical lab are transferred to the General Fund.

(b) The appropriation in the amount of four million seven hundred fifty thousand eight hundred dollars (\$4,750,800) for the 1986-87 fiscal year to the Department of Natural Resources and Community Development for a toxic metal and organic analytical lab in Section 4 of Chapter 480 of the 1985 Session Laws is repealed.

(c) This section shall become effective June 30, 1986.

—NEW REVENUE BUILDING

Sec. 192. Funds are appropriated to the Department of Administration in Section 4 of this act for planning a new Revenue Building.

—NEW EDUCATION BUILDING

Sec. 193. (a) Effective June 30, 1986, the funds appropriated to the Department of Administration in Section 4 of Chapter 480 of the 1985 Session Laws for the renovation of the Education Building shall revert to the General Fund.

(b) Funds in the amount of two million two hundred thousand dollars (\$2,200,000) that have been allocated from the Reserve for Renovations and Repairs for renovating the Education Building shall be used for construction of a new Education Building.

(c) The sum of one million six hundred fifty thousand dollars (\$1,650,000) is appropriated to the Department of Administration in Section 4 of this act for planning and construction of a new Education Building. Of these funds, no more than one million dollars (\$1,000,000) may be used for planning.

PART XVIII.—GENERAL ASSEMBLY

—STATE-OWNED PROPERTY STUDY COMMITTEE/MEMBERSHIP INCREASED

Sec. 194. Section 14.1 of Chapter 792 of the 1985 Session Laws is amended by increasing the membership of the committee from eight to fourteen members. Three of the additional members shall be appointed by the Lieutenant Governor and three shall be appointed by the Speaker of the House of Representatives.

PART XIX.—ATTORNEY GENERAL

—ATTORNEY GENERAL STAFF POSITIONS

Sec. 195. (a) Funds are appropriated to the Department of Justice in Section 2 of this act in the amount of sixty-eight thousand two hundred dollars (\$68,200) for two additional staff positions in the Western Office. These positions shall be used for additional duties as may be assigned to the Attorney General by the General Assembly and for other duties in the discretion of the Attorney General.

(b) G.S. 122C-268(b) is amended by adding at the end two new sentences to read:

"In addition, the Attorney General may, in his discretion, designate an attorney who is a member of his staff to represent the State's interest at any commitment hearing, rehearing, or supplemental hearing held in a place other than at one of the State's facilities for the mentally ill or the psychiatric service of North Carolina Memorial Hospital."

—ATTORNEY GENERAL STAFF POSITION FOR DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Sec. 195.1. The Secretary of Crime Control and Public Safety may authorize the use of funds within the Department's budget for an Attorney II position in the Department of Justice. The Attorney General shall assign the Attorney II to the Department of Crime Control and Public Safety.

—JORDAN LAKE AND KERR LAKE LAW ENFORCEMENT

Sec. 196. Of the funds appropriated to the Department of Justice in Section 2 of this act, the sum of twenty-five thousand dollars (\$25,000) shall be used by Chatham County and the sum of twenty-five thousand dollars (\$25,000) shall be used by Vance County for law enforcement at the public access and camping areas during peak use times at Jordan Lake and Kerr Lake. Chatham and Vance Counties shall report, before December 1, 1986, on expenditures of these funds to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

PART XX.—CORRECTION

—RELEASE OF INMATES TO REDUCE PRISON POPULATION

Sec. 197. (a) G.S. 148-4.1(c) is amended by inserting before the final period:

"; provided, however, when the Secretary of Correction certifies that in his opinion a person eligible for parole under Article 85A of Chapter 15A poses no threat to society, that person shall be eligible for early parole under this section nine months prior to the discharge date otherwise applicable, and six months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2."

(b) The second sentence of G.S. 15A-1380.2(c) is replaced with the following two sentences:

"In the case of an inmate eligible for parole under G.S. 148-4.1 who has less than 180 days remaining on the maximum sentence, the Parole Commission may simultaneously parole and terminate supervision of the prisoner when the Commission finds that such action will not be incompatible with the public interest. In the case of an inmate eligible for parole under G.S. 148-4.1 who has 180 to 270 days remaining on the maximum sentence, the Parole Commission may simultaneously parole and terminate supervision of the prisoner when the Secretary of Correction certifies that in his opinion the prisoner poses no threat to society and when the Commission finds that such action will not be incompatible with the public interest."

(c) This section is effective upon ratification.

—LOCAL REIMBURSEMENT FOR STATE CONFINEMENT

Sec. 198. (a) The first paragraph of G.S. 162-39 is amended by replacing the fifth sentence with the following two sentences:

"If a prisoner is transferred to a unit of the State prison system, the county from which the prisoner is transferred shall pay the Department of Correction for maintaining the prisoner for the time designated by the court at the per day, per inmate rate at which the Department of Correction pays a local jail for maintaining a prisoner, provided, however, that a county is not required to reimburse the State for maintaining a prisoner who was a resident of another state or county at the time he committed the crime for which he is imprisoned. If the prisoner is transferred to a jail in some other county, the county from which the prisoner is transferred shall pay to the county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the time designated by the court."

(b) The second paragraph of G.S. 162-39 is amended by replacing the first sentence with the following sentence:

"The county from which the prisoners are transferred shall pay to the Department of Correction the actual cost of transporting the prisoners and the cost of maintaining the prisoners at the per day, per inmate rate at which the Department of Correction pays a local jail for maintaining a prisoner, provided, however, that a county is not required to reimburse the State for transporting or maintaining a prisoner who was a resident of another state or county at the time he was arrested."

(c) G.S. 162-39 is amended in the third paragraph by deleting the phrase "and the cost of transporting and maintaining the prisoners shall be paid by the municipality" and substituting the phrase "and the municipality shall be liable for the cost of transporting and maintaining the prisoners to the same extent as a county would be".

—STATE REIMBURSEMENT FOR LOCAL CONFINEMENT COSTS

Sec. 199. The first sentence of G.S. 148-32.1(a) is amended by deleting the language "30 to 180 days" and substituting "30 days or more".

Sec. 200. The rate the Department of Correction pays each local confinement facility for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to those male inmates committed to the custody of the local confinement facility to serve sentences of 30 days or more shall be twelve dollars and fifty cents (\$12.50) per day, per inmate.

—AUTHORIZE JUDGES TO ORDER WORK RELEASE FOR MISDEMEANANTS

Sec. 201. (a) G.S. 15A-1351(f) is rewritten to read:

"(f) Work Release. When sentencing a person convicted of a felony, the sentencing court may recommend that the sentenced offender be granted work release as authorized in G.S. 148-33.1. When sentencing a person convicted of a misdemeanor, the sentencing court may recommend or, with the consent of the person sentenced, order that the sentenced offender be granted work release as authorized in G.S. 148-33.1."

(b) G.S. 15A-1352 is amended by adding a new subsection at the end to read:

"(d) Notwithstanding any other provision of law, when the sentencing court, with the consent of the person sentenced, orders that a person convicted of a misdemeanor be granted work release, the court may commit the person to a specific prison facility or local confinement facility

within the county of the sentencing court in order to facilitate the work release arrangement. When appropriate to facilitate the work release arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners, commit the person to a specific local confinement facility in another county, or, with the consent of the Department of Correction, commit the person to a specific prison facility in another county. The Department of Correction may transfer a prisoner committed to a specific prison facility to a different facility when necessary to alleviate overcrowding or for other administrative purposes.”

(c) G.S. 15A-1353 is amended by adding a new subsection to read:

“(f) When the sentencing court, with the consent of the person sentenced, orders that a person convicted of a misdemeanor be granted work release, the following provisions must be included in the commitment, or in a separate order referred to in the commitment:

- (1) The date work release is to begin;
- (2) The prison or local confinement facility to which the offender is to be committed;
- (3) A provision that work release terminates the date the offender loses his job or violates the conditions of the work-release plan established by the Department of Correction; and
- (4) A determination whether the earnings of the offender are to be disbursed by the Department of Correction or the clerk of the sentencing court in the manner that the court in its order directs.”

(d) G.S. 20-179(s) is amended by deleting the second sentence of that subsection.

(e) G.S. 148-32.1(d) is rewritten to read:

“(d) When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to a recommendation of the sentencing court, the custodian of the facility shall forward the prisoner’s work-release earnings to the Department of Correction, which shall disburse the earnings as determined under G.S. 148-33.1(f). When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to an order of the sentencing court, the custodian of the facility shall forward the prisoner’s work-release earnings to the clerk of the court that sentenced the prisoner or to the Department of Correction, as provided in the prisoner’s commitment order. The clerk or the Department, as appropriate, shall disburse the earnings as provided in the prisoner’s commitment order. Upon agreement between the Department of Correction and the custodian of the local confinement facility, however, the clerk may disburse to the local confinement facility the amount of the earnings to be paid for the cost of the prisoner’s keep, and that amount shall be set off against the reimbursement to be paid by the Department to the local confinement facility pursuant to G.S. 148-32.1(a).”

(f) G.S. 148-33.1(a) is amended in the first sentence of that subsection by deleting the phrase “such inmate as may be eligible for the program as is hereinafter established” and substituting the phrase “inmate who is eligible for work release and who has not been granted work-release privileges by order of the sentencing court”.

(g) G.S. 148-33.1(c) is amended in the second sentence of that subsection by inserting between the words "privileges" and "until" the words "by the Director of Prisons or the custodian of a local confinement facility".

(h) That part of G.S. 148-33.1(f) preceding the colon is rewritten to read:

"A prisoner who is convicted of a felony and who is granted work-release privileges shall give his work-release earnings, less standard payroll deductions required by law, to the Department of Correction. A prisoner who is convicted of a misdemeanor, is committed to a local confinement facility, and is granted work-release privileges by order of the sentencing court shall give his work-release earnings, less standard payroll deductions required by law, to the custodian of the local confinement facility. Other misdemeanants granted work-release privileges shall give their work-release earnings, less standard payroll deductions required by law, to the Department of Correction. The Department of Correction or the sentencing court, as appropriate, shall determine the amount to be deducted from a prisoner's work-release earnings to pay for the cost of the prisoner's keep and to accumulate a reasonable sum to be paid the prisoner when he is paroled or discharged from prison. The Department or sentencing court shall also determine the amount to be disbursed by the Department or clerk of court, as appropriate, for each of the following".

(i) G.S. 148-33.1(f) is further amended by deleting the sentence following subdivision (4) of that subsection and adding a new subdivision to read:

"(5) To comply with a written request by the prisoner to withhold an amount, when the request has been granted by the Department or the sentencing court, as appropriate."

(j) This section is effective upon ratification.

—MOST TRAFFIC OFFENDERS SENTENCED TO LOCAL JAIL

Sec. 202. (a) G.S. 20-176 is amended by adding a new subsection to read:

"(c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28 (a) and (b), G.S. 20-141(j), G.S. 20-141.3 (b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter."

(b) This section shall become effective October 1, 1986, and applies to persons sentenced on and after that date.

—PRISON CANTEEN FUND DEPOSITS

Sec. 203. G.S. 148-2 is amended by adding a new subsection to read:

"(c) Notwithstanding G.S. 147-77, Article 6A of Chapter 147 of the General Statutes, or any other provision of law, the Department of Correction may deposit revenue from prison canteens in local banks. The profits from prison canteens shall be deposited with the State Treasurer on a monthly basis."

—PRIVATIZATION OF PRISONS STUDY

Sec. 204. The Joint Legislative Commission on Governmental Operations shall study the advisability and feasibility of privatization of the State prison system. After July 1, 1986, no additional privately owned or operated confinement facilities may be added to the State prison system until the General Assembly acts on the findings and recommendations submitted by the Commission; provided, however, ECO, Inc., may operate a private, nonprofit work release center for women and Gethsemane-Rainbow Partnership, Inc., may operate pre-release programs in Raleigh and Rocky Mount.

—EVALUATION OF COMMUNITY PROGRAMS

Sec. 205. The Special Legislative Committee on Prisons created by the President of the Senate and the Speaker of the House of Representatives in December 1985 shall conduct an evaluation of community alternatives to incarceration. The Committee shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—RESERVE FOR PRISON NEEDS

Sec. 206. (a) It is the intent of the General Assembly to operate a prison system that complies with all provisions of the State and federal constitutions and to continue to protect the people of the State from those who refuse to obey the rules of society. The General Assembly finds that two million five hundred thousand dollars (\$2,500,000), in addition to other funds that have been appropriated for the prison system, may be needed to accomplish this intent and is the maximum amount that can be reasonably spent in an orderly fashion during the 1986-87 fiscal year. Therefore, funds are appropriated in Section 2 of this act in the sum of two million five hundred thousand dollars (\$2,500,000) to a Reserve for Prison Needs.

(b) Funds from this reserve shall be spent to purchase land in Buncombe County for Craggy Prison, to renovate and operate a facility for female minimum custody inmates in Building A at Cherry Hospital, to reduce the caseload of probation and parole officers as provided in subsection (c) of this section, and to operate the Cameron Morrison facility as provided in Section 208 of this act. Funds in this reserve not needed for these purposes shall be spent as directed by the General Assembly.

(c) Of the funds in the Reserve for Prison Needs, up to one million one hundred thousand dollars (\$1,100,000) may be used to reduce the caseload of probation officers and parole officers by adding the following new positions in the Department of Correction:

(1) Effective October 1, 1986, 26 probation officers, 4 parole officers in prerelease and aftercare, and 4 support personnel positions.

(2) Effective February 1, 1987, 26 additional probation officers, 4 additional parole officers in prerelease and aftercare, and 4 additional support personnel positions.

The Department may not assign any of the probation officers or parole officers for which funds are provided in this section to supervisory positions. Also, no additional supervisory positions may be created that decrease the number of currently established probation officer or parole officer positions.

The General Assembly finds that this is the maximum number of probation and parole officers and support personnel that can be hired and used effectively before the convening of the regular 1987 Session of the General Assembly. The General Assembly intends to reexamine the issue of probation and parole officers' caseloads early in the 1987 Session and to allocate additional funds from the reserve to further reduce probation and parole officers' caseloads if necessary and appropriate.

—RENOVATION AND USE OF BUILDING A AT CHERRY HOSPITAL

Sec. 207. (a) Of the funds in the Reserve for Prison Needs, the sum of one hundred thirty-four thousand dollars (\$134,000) shall be used to renovate Building A at Cherry Hospital for use as a minimum custody facility for female inmates. If the facility is made operable before additional appropriations are made by the 1987 General Assembly, the Department may use funds from the Reserve for Prison Needs for this purpose without further action by the General Assembly.

Notwithstanding any other provision of law, to the extent practical, the Department shall use inmate labor and force account labor to renovate Building A at Cherry Hospital.

(b) Building A is transferred from the Department of Human Resources to the Department of Correction, Division of Prisons, effective on the date renovations or the designs for renovations begin. On or before that date, the Department of Human Resources shall close the building and may not expend any funds to continue its operations after that date.

The transfer shall include the land, building, and fixtures. The disposition of movable equipment and supplies on the site shall be determined by the Office of State Budget and Management after consultation with the two Departments involved.

—RENOVATION AND USE OF CAMERON MORRISON

Sec. 208. Of the funds appropriated to the Department of Correction in Section 4 of this act, the sum of forty-eight thousand dollars (\$48,000) shall be used to renovate the dormitory at the Cameron Morrison facility for use as a minimum custody facility for 80 inmates, and the sum of twenty-seven thousand five hundred dollars (\$27,500) shall be used for a fence at the facility. Of the funds appropriated to the Department of Correction in Section 2 of this act, the sum of sixty thousand dollars (\$60,000) shall be used to operate the facility, beginning April 1, 1987. If the Department is able to operate the facility prior to April 1, 1987, the Department may use funds from the Reserve for Prison Needs for this purpose without further action by the General Assembly.

Notwithstanding any other provision of law, to the extent practical, the Department shall use inmate labor and force account labor to renovate the dormitory at the Cameron Morrison facility.

—FORESTRY CAMP

Sec. 209. Of the funds appropriated in Section 2 of this act to a Reserve for a Forestry Camp in the Office of State Budget and Management, the sum of nine hundred seventy-three thousand three hundred sixty-four dollars (\$973,364) shall be allocated for the construction and operation of the Youthful Offenders Forestry Program at the camp. The Department of Correction shall contract with the Department of Natural Resources and Community Development for the operation of the

Youthful Offenders Forestry Program. Notwithstanding any other provision of law, force account labor shall be used to the maximum extent possible to construct the camp.

The Department of Natural Resources and the Department of Correction shall cooperate fully and develop a joint plan for the construction of the facility and the operation of the program. The Department of Natural Resources and Community Development shall design the facility. The Departments shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division their progress in designing the facility by October 1, 1986, and on their joint plan before they implement it.

The camp may not be located on property owned by or under the supervision of the Department of Agriculture without the consent of the Commissioner of Agriculture.

—CONSTRUCT DORMITORIES AT CARTERET AND GUILFORD COUNTY PRISON UNITS

Sec. 210. Of the funds appropriated to the Department of Correction in Section 4 of this act, one million two hundred thirteen thousand four hundred dollars (\$1,213,400) shall be used to construct a 100-bed dormitory at the Carteret County Prison Unit and one million two hundred thirteen thousand four hundred dollars (\$1,213,400) shall be used to construct a 100-bed dormitory at the Guilford I prison unit. These dormitories shall be used to expand the number of beds available for inmates participating in work release, study release, and other community programs.

—WOMEN'S PRISON CAPITAL IMPROVEMENTS

Sec. 211. Funds are appropriated in Section 4 of this act to the Department of Correction for capital improvements at the North Carolina Correctional Facility for Women. The Department of Correction shall use these funds to construct two additional 100-bed dormitories for female inmates. Minimum custody inmates participating in work-release, study-release, and other external programs in Wake County shall be housed in a 100-bed facility to be constructed outside the fenced perimeter of the North Carolina Correctional Center for Women. The remaining 100-bed dormitory to be constructed shall be designed to separate the various custody levels at the North Carolina Correctional Center for Women to the fullest extent possible.

—REPLACEMENT OF CRAGGY PRISON

Sec. 212. Of the funds appropriated to the Department of Correction in Section 4 of this act, five million six hundred sixty-four thousand dollars (\$5,664,000) shall be used to construct a 300-bed medium custody facility in Buncombe County to replace Craggy Prison.

—CONSTRUCT ADVANCEMENT CENTER IN BUNCOMBE COUNTY

Sec. 213. Of the funds appropriated to the Department of Correction in Section 4 of this act, one million two hundred thirty thousand dollars (\$1,230,000) shall be used to purchase land and construct a 100-bed unit in Buncombe County similar to the Wake Advancement Center to serve inmates participating in work release, study release, and other community programs. If land is available at the new Craggy Prison site, the Advancement Center may be constructed at that location.

—REALLOCATION OF EXCESS FUNDS FROM CONSTRUCTION PROJECTS IN THE SOUTH PIEDMONT AREA

Sec. 214. Of the funds appropriated to the Department of Correction in Chapter 480 of the 1985 Session Laws, the Department of Correction may, with the approval of the Office of State Budget and Management, use excess capital appropriations made for the South Piedmont Area to improve physical support systems at prison field units throughout the State and to make electrical, sewer, and water system improvements necessary for the construction of the new minimum custody dormitory at the Guilford I prison unit.

The Department of Correction shall report its plans for using these excess capital appropriations to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division immediately upon completion of the plans and before entering into any contracts to implement the plans.

—DORMITORY RENOVATIONS

Sec. 215. Of the funds appropriated to the Department of Correction in Section 4 of this act, one million three hundred sixty-eight thousand three hundred forty-eight dollars (\$1,368,348) shall be used to make renovations and improvements, similar to those made in dormitories in prison units in the South Piedmont Area, at the remaining fifty-two field units in the Department of Correction.

—RESERVE FOR WORK RELEASE CENTER IN CUMBERLAND COUNTY

Sec. 216. Of the funds appropriated in Section 4 of this act, one million two hundred thirty thousand dollars (\$1,230,000) shall be placed in a reserve to be allocated by the 1987 General Assembly for a work release center in Cumberland County. These funds do not revert at the end of the 1986-87 fiscal year.

—HARNETT PRISON CHAPEL FUNDS/DO NOT REVERT

Sec. 217. (a) Funds in the amount of fifty thousand dollars (\$50,000) were appropriated to the Department of Correction in Section 3 of Chapter 971 of the 1983 Session Laws for the construction of a chapel at Harnett Correctional Center. These funds may not revert but shall remain available for expenditure for this purpose until June 30, 1987.

(b) This section shall become effective June 30, 1986.

—REPORTING REQUIREMENTS ON DEPARTMENT OF CORRECTION CAPITAL PROJECTS

Sec. 218. (a) Funds are appropriated to the Department of Correction in Section 4 of this act for capital improvements, including replacement of Craggy Prison with three dormitories; construction of two dormitories at the North Carolina Correctional Center for Women; construction of dormitories in Guilford and Carteret Counties; and construction of a minimum custody work release facility in Buncombe County. The Department of Correction shall draw plans for Craggy Prison, dormitories in Guilford and Carteret Counties, and the dormitory inside the fenced perimeter at the Correctional Center for Women to comply with the requirements for minimum floor area per inmate in sleeping areas of new construction provided by the consent judgment in *Hubert v. Ward*. The Department shall draw plans for the work release facility in

Buncombe County and the facility outside the fenced perimeter at the Correctional Center for Women based on a minimum floor area of 40 square feet per inmate in the sleeping area. The facilities shall be designed for construction within the funds appropriated for their construction. The Department shall submit the plans as soon as they are complete, and before entering into any contracts to begin construction, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(b) The Office of State Budget and Management and the Department of Correction shall provide the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division quarterly reports on the progress of and expenditures on all Department of Correction capital projects funded by the General Assembly for the 1986-87 fiscal year and on the construction of a new infirmary for the North Carolina Correctional Center for Women funded in Section 110 of Chapter 757 of the 1985 Session Laws.

(c) Subsection 166(e) of Chapter 757 of the 1985 Session Laws is amended by deleting the phrase "a report" and substituting the phrase "an annual report" and by deleting the phrase "May 1, 1986" and substituting the phrase "May 1 of each year of the biennium".

PART XXI.—CRIME CONTROL AND PUBLIC SAFETY
—FUNDING FOR COMMUNITY PENALTIES PROGRAMS

Sec. 219. From the funds appropriated in Section 2 of this act, the Department of Crime Control and Public Safety shall provide ninety percent (90%) of the funding for the four new Community Penalties programs. The remaining funds are to be used to expand the existing five programs and to continue their funding at eighty percent (80%). Fees are to continue to be collected for these programs.

—HARNETT COUNTY LAW ENFORCEMENT CENTER

Sec. 220. (a) Of the two hundred fifty thousand dollars (\$250,000) allocated to the Department of Crime Control and Public Safety in Section 5.2 of Chapter 480 of the 1985 Session Laws to construct district office facilities for the Highway Patrol in conjunction with the Harnett County Law Enforcement Center, funds that have not been expended by June 30, 1986, shall be transferred to Harnett County. The Harnett County Commissioners shall use these funds to provide rent-free facilities totalling approximately 3,961 square feet for a district office for the Highway Patrol in conjunction with the Harnett County Law Enforcement Center. These funds shall remain available to Harnett County for expenditure until June 30, 1987.

(b) This section shall become effective June 30, 1986.

PART XXII.—COURTS AND OFFICE OF ADMINISTRATIVE HEARINGS

—PUBLIC DEFENDER PERSONNEL POSITIONS

Sec. 221. Of the funds appropriated to the Indigent Persons Attorney Fee Fund in the Judicial Department, the Judicial Department shall use the sum of three hundred thirty-two thousand four hundred seventy dollars (\$332,470) for salaries, benefits, and related expenses for six new assistant public defender positions, one secretary to the Public Defender position, and one new paralegal position in the Public Defender's office.

—DURHAM MAGISTRATE AUTHORIZED

Sec. 222. G.S. 7A-133 is amended in the table so that the maximum number of magistrates authorized for Durham County is rewritten to read: "12".

—MAGISTRATES' SALARY CREDIT

Sec. 223. (a) G.S. 7A-171.1(a) is amended by adding a new subdivision (4) as follows:

"(4) Notwithstanding any other provision of this section, a beginning full-time magistrate with 10 years' experience within the last 12 years as a sheriff or deputy sheriff, administrative officer for a district attorney, city or county police officer, or highway patrolman in the State of North Carolina, or with 10 years' experience within the last 12 years as clerk of superior court or an assistant or deputy clerk of court in the State of North Carolina may be initially employed at the annual salary provided in the table in subdivision (1) for a magistrate with 'five or more but less than seven' years of service. Seniority increments for a magistrate with the law enforcement or judicial system experience described above accrue thereafter at two-year intervals, as provided in the table. A beginning magistrate who meets the criteria for increased beginning salary under both subdivisions (3) and (4) may not combine those entry levels but may begin at the higher of the two levels."

(b) This section shall become effective July 1, 1986, and applies to magistrates initially appointed on or after that date.

—COMPUTATION OF LONGEVITY FOR DISTRICT ATTORNEY
INCLUDES SERVICE AS AN ASSISTANT DISTRICT ATTORNEY

Sec. 224. G.S. 7A-65(c) is amended in the second sentence by deleting the phrase "an assistant, deputy," and substituting the phrase "a deputy", and by rewriting the third sentence to read:

"Service shall also mean service as a justice or judge of the General Court of Justice, as a clerk of superior court, or as an assistant district attorney."

—RETIRED APPELLATE JUDGE SERVICE EXTENDED

Sec. 225. Subsection 15(b) of Chapter 698 of the 1985 Session Laws is amended by deleting the phrase "1986" and substituting the phrase "1987".

—ASSIGNMENT OF BUILDING TO OFFICE OF ADMINISTRATIVE
HEARINGS

Sec. 226. The Department of Administration shall assign the Capehart-Crocker House in Raleigh to the Office of Administrative Hearings for its occupancy and use. The Department of Administration shall provide all maintenance and other building services including, but not limited to, physical plant expenditures, maintenance of building grounds and adjacent parking areas, building security, utilities, and janitorial service. Notwithstanding G.S. 150B-40(e), 150B-63(f), or 7A-758, the monies accumulated in the special funds account established by these statutes shall be disbursed not less than twice each calendar year to the General Fund to offset the previously incurred costs of relocating the Capehart-Crocker House until a total of one hundred fifty-one thousand one hundred twenty-five dollars (\$151,125) has been disbursed under this provision.

PART XXIII.—MISCELLANEOUS PROVISIONS

—COMMUNITY COLLEGE FUNDS TRANSFERRED

Sec. 227. Funds appropriated in Section 2 of this act to the Department of Community Colleges in the category of State Aid-Priority Programs (line item 6327) in the amount of two hundred fifty thousand dollars (\$250,000) are transferred to the category State Aid-Small Business (line item 6345).

—COMMERCIAL FISHING

Sec. 227.1. (a) G.S. 113-152(c)(4a) is amended by adding the following at the end:

“Licenses for vessels owned by persons who are not residents of North Carolina or by corporations not incorporated under the laws of the State of North Carolina may be sold only during the month of January of each year for that calendar year.”

(b) This section shall become effective January 1, 1987.

—CERTAIN PROGRAMS NOT COVERED BY COMMUNITY COLLEGE TUITION INCREASE

Sec. 228. (a) The tuition and fee increase for out-of-state students set out in Section 81 of this act does not apply to any Job Corps training program for which a community college has entered into a contract before the effective date of this section, until the expiration of the contract. To the extent that adequate funds are not available to train students pursuant to these contracts, the State Board of Community Colleges may authorize the use of funds for this purpose from the reserve established in Section 83 of this act.

(b) This section is effective upon ratification.

—AFDC TWO-PARENT ELIGIBILITY

Sec. 229. (a) (1) G.S. 108A-28(a)(2) is rewritten to read:

“(2) Has been deprived of parental support or care by reason of a parent’s death, physical or mental incapacity, continued absence from the home, or unemployment under the eligibility requirements set forth in G.S. 108A-28(b);”.

(a) (2) G.S. 108A-28(b) is amended by adding a new paragraph to the end to read:

“Assistance shall also be granted to two parents, whether natural, adoptive, or stepparents, with whom a dependent child lives, who meet the eligibility criteria set out in subdivisions (1), (2), and (3) of this subsection, and in applicable federal rules and regulations, and who are married to each other.”

(b) Funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, shall be used by the Division to obtain all necessary federal approvals for implementation of subsection (a) of this section. Before funds may be appropriated for implementation of this section, the Division of Social Services shall make a report on the status of federal approvals and make its recommendations to the 1987 General Assembly, Committee on Human Resources Appropriations.

(c) Subsection (a) shall become effective July 1, 1987, provided State and federal funds are appropriated to implement it.

—CAREER DEVELOPMENT PILOT PROGRAM/MODIFICATIONS

Sec. 230. (a) The first sentence of G.S. 115C-363.2(g) is amended by deleting the language “as an instructional leader or school manager” and substituting the language “in the position, including superintendent, associate superintendent, or assistant superintendent”.

(b) The first sentence of the second paragraph of G.S. 115C-363.2(g) is amended by deleting the language “the same as” and substituting the language “comparable to”.

(c) G.S. 115C-363.2(g) is amended by adding a new sentence at the end to read:

“The superintendent shall be evaluated by the local school board using performance standards developed by the State Board of Education or by local boards of education.”

(d) The last sentence of G.S. 115C-363.3(a) is rewritten to read:

“The employee shall be formally observed at least twice each year by the principal or the principal’s designee and at least twice by a trained evaluator, and shall be formally evaluated at least once each year by the principal or the principal’s designee.”

(e) The last sentence of the first paragraph of G.S. 115C-363.3(b) is rewritten to read:

“The employee shall be formally observed at least twice by the principal or the principal’s designee and at least twice by a trained evaluator, and shall be formally evaluated by the principal or the principal’s designee.”

(f) The second paragraph of G.S. 115C-363.3(b) is rewritten to read:

“If the employee has completed at least 30 hours of effective teaching training as provided in G.S. 115C-363.7 and if the employee’s evaluation has been at least at standard in all functions as defined in the Performance Appraisal System, the principal shall recommend to the superintendent, and the superintendent shall review the evaluation and recommend to the board, the employee for Career Status I at the end of the provisional year. If the employee has not completed the training or if the employee’s evaluation has not been at least standard in all functions, the principal shall recommend the employee for contract termination.”

(g) The first two paragraphs of G.S. 115C-363.3(c) are rewritten to read:

“(c) An employee shall have ‘Career Status I’ if the employee was recommended and approved for Career Status I as provided in subsection (b) of this section. An employee in Career Status I, other than a superintendent, assistant superintendent, or associate superintendent, is a ‘career teacher’ as defined in G.S. 115C-325. The employee shall receive a salary of one step over the State salary that would otherwise have applied. The employee shall be formally observed at least once each year and evaluated by the principal or the principal’s designee, and may also be formally observed by a trained evaluator.

For purposes of the pilot, no earlier than the first year in Career Status I, an employee who otherwise meets all requirements may apply for Career Status II. During the year the employee applies, the employee shall be formally observed at least twice by the principal and at least twice by a trained evaluator and formally evaluated at least once by the principal or the principal’s designee. The employee shall also prepare during that year and submit a portfolio that includes the employee’s attendance records,

indicators of professional growth, any unique assignments or leadership roles, valid certification, acceptable ratings on recent evaluations, additional duties and responsibilities and the time they required, and the employee's years of experience. If the employee's evaluation has been a combination of ratings of above standard and higher as defined in the Performance Appraisal System, the principal may, on the basis of the evaluation(s), the portfolio, and any interview, recommend to the superintendent, and the superintendent shall review the evaluation information and recommend to the local board, the employee for promotion to Career Status II. If the employee is not recommended for promotion to Career Status II, the employee shall remain in Career Status I."

(h) The first two paragraphs of G.S. 115C-363.3(d) are rewritten to read:

"(d) An employee shall have 'Career Status II' if the employee is recommended for promotion to Career Status II as provided in subsection (c) of this section and the employee is granted that status by the local board. The employee shall receive a salary of two steps over the State salary that would otherwise have applied if the employee had not participated in the pilot program. The employee shall be formally observed at least once and evaluated by the principal or the principal's designee and may also be formally observed by a trained evaluator during the year the employee is granted this status. This process will be continued in subsequent years while in this status.

A Career Status II employee whose evaluation(s) indicate(s) that the employee is not maintaining a combination of ratings of above standard and higher performance shall be formally observed at least twice by the principal or the principal's designee and at least twice by a trained evaluator and formally evaluated once during the next year. If these additional observations and evaluation indicate the employee is not maintaining above standard or higher performance, the principal shall recommend that the employee be reclassified to Career Status I. If the employee is reclassified, the employee may receive no more than the salary appropriate for a person in Career Status I."

(i) G.S. 115C-363.3 is amended by adding a new subsection to read:

"(e) Career Status III. For purposes of the pilot, no earlier than the second year in Career Status II may a participant in the Career Development Program apply for Career Status III."

(j) The second paragraph of G.S. 115C-363.10 is rewritten to read:

"The report shall include a description of the progress of the pilot, the distributions of ratings, the numbers and percentages of staff on each of the various levels of status, and the criteria for Career Status II, bearing in mind the intent of the General Assembly to establish Career Status III. The report shall also include specific criteria for eligibility for Career Status III."

(k) G.S. 115C-363.11(a) is rewritten to read:

"(a) During each year of the pilot, the stipend for successful completion of the Effective Teaching Training Program shall be paid to those who are new to the Pilot Program."

(1) Of the funds appropriated to the Department of Public Education in Section 2 of this act for the Career Development Pilot Program, the Basic Education Program, the Competency Based Testing Program, the Outside Evaluation Program, and other legislatively mandated programs, an amount as required for monitoring these programs and reporting on them to the General Assembly and the Joint Legislative Commission on Governmental Operations shall be used for these purposes.

The Department shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on funds used for these purposes.

—STATE PARKS FUNDS USED FOR REPAIR

Sec. 231. (a) Of the funds appropriated to the Department of Natural Resources and Community Development for fiscal year 1986-87 in Section 126 of Chapter 757 of the 1985 Session Laws, the sum of seven million five hundred thousand dollars (\$7,500,000) shall be allocated as follows:

(1) Four hundred thousand dollars (\$400,000) shall be used for temporary personnel to supervise community service workers, when community service workers are available, in performing repairs and maintenance of the parks and for the cost of transporting the workers and supervisors to the parks. The Department of Natural Resources and Community Development shall report to the Community Service Coordinator in the county in which a park is located and the adjoining counties the skills needed to repair and maintain the parks. The community service coordinator shall assign people who have those skills to work in the parks.

(2) Eight hundred thousand dollars (\$800,000) shall be used for materials on safety gear and supplies necessary for the performance of repairs and maintenance by the community service workers or supervisor personnel.

(3) Two million five hundred thousand dollars (\$2,500,000) shall be used for repair and maintenance at the following parks: Eno River, Lake Waccamaw, Weymouth Woods, Carolina Beach, Fort Fisher, Fort Macon, Hammocks Beach, Jordan Lake, Kerr Lake, Crowder's Mountain, Boone's Cave, Morrow Mountain, Hanging Rock, Stone Mountain, Mt. Mitchell, New River, and Pilot Mountain. Provided, however, the Department shall maximize the use of community service workers for repair and maintenance at the parks. The Department is authorized to use these funds for repair and maintenance of the parks only in areas or on projects where community service workers are not available or where community service workers cannot complete the project.

(4) Three million eight hundred thousand dollars (\$3,800,000) may be used for the purposes set out in Section 126(b) of Chapter 727 of the 1985 Session Laws. The Department may purchase the areas specified in Section 126(b) in any order or manner as is necessary for efficiency or cost effectiveness and may use some of these funds for land surveys and appraisal fees.

(b) Notwithstanding any other provision of law, the remainder of the funds appropriated to the Department of Natural Resources and Community Development for fiscal year 1986-87 in Section 126 of Chapter 757 of the 1985 Session Laws shall be placed in a reserve and may not

be spent by the Department until the 1987 General Assembly directs how the funds are to be used. The Department shall present to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by December 15, 1986, its plans for use of the funds for repairs, renovation, and land acquisition.

(c) The Department of Crime Control and Public Safety shall report, each month beginning in August, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the number of community service workers who were available during the prior month to perform repairs and maintenance of the parks and when and where they were available.

(d) The Department of Natural Resources and Community Development shall report, each month beginning in August, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on community service workers who were used to perform repairs and maintenance of the parks during the prior month and when and where they were used.

—WATER AND SEWER FUNDING MATCHING REQUIREMENTS/VANCE COUNTY AND HENDERSON

Sec. 232. Funds in the amount of two hundred thousand dollars (\$200,000) spent by Vance County and the City of Henderson prior to the 1985-86 fiscal year to construct a water line, completed in 1985, to their industrial park shall qualify as matching funds for water and sewer funds appropriated by the 1985 General Assembly in Section 4 and allocated in Section 5.12 of Chapter 480 of the 1985 Session Laws.

—UTILITIES COMMISSION/STATE REIMBURSEMENT PROCEDURES

Sec. 233. G.S. 62-48(b) is amended by adding the following sentence at the end of the subsection:

"The Commission is also authorized to establish procedures whereby the State may be reimbursed from past and future refunds received by the North Carolina natural gas distribution companies for travel expenses incurred by staff members of the Commission and Public Staff designated to provide assistance to the Commission's private legal counsel in natural gas matters before federal courts and agencies."

—DEPARTMENT OF CORRECTION ENGINEER POSITIONS

Sec. 234. The Department of Correction may, from funds appropriated to it for the 1986-87 fiscal year, spend up to one hundred sixty-two thousand one hundred ninety-eight dollars (\$162,198) as necessary for operating expenses, travel, and other related costs for the 15 new engineer positions authorized for fiscal year 1986-87 for the Engineering Support Section.

—ADDITIONAL PERSONNEL ACT EXEMPTIONS

Sec. 235. G.S. 126-5 is amended by adding a new subsection (c3) to read:

"(c3) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(4), 126-4(5), and 126-4(6), and except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to: Teaching and related educational classes

of employees of the Department of Correction, the Department of Human Resources, and any other State department, agency, or institution, whose salaries shall be set in the same manner as set for corresponding public school employees in accordance with Chapter 115C of the General Statutes."

—REMOVAL OF ARCHITECTURAL BARRIERS TO HANDICAPPED PERSONS

Sec. 236. The funds appropriated to the Office of State Budget and Management in Section 4 of Chapter 480 of the 1985 Session Laws as a Reserve for Repairs and Renovations may be used for projects to remove architectural barriers to handicapped persons at State-owned facilities.

—PERMIT CERTAIN TRANSFERS FOR REORGANIZATION AND FEDERAL FUND REDUCTIONS

Sec. 237. Notwithstanding G.S. 143-23, until June 30, 1987, State agencies may, within their budgeted, filled positions, reorganize among programs approved by the General Assembly to alleviate cutbacks in federal funds that were not anticipated in the 1986-87 State budget or to carry out special program mandates set by the General Assembly.

Prior to any such reorganization, the State agency and the Office of State Budget and Management shall report the planned reorganization to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

—FUNDS TO ADMINISTER THE RIGHT-TO-KNOW LAW

Sec. 237.1. Of the funds appropriated to the Department of Labor in Section 2 of this act, the sum of one hundred ninety-nine thousand nine hundred sixty-eight dollars (\$199,968) shall be used to administer the Right-To-Know law.

—EXECUTIVE BUDGET ACT APPLIES

Sec. 238. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

—MOST TEXT APPLIES ONLY TO 1986-87

Sec. 239. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1986-87 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1986-87 fiscal year.

—1985-86 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Sec. 240. Except where expressly repealed or amended by this act, the provisions of Chapters 479, 480, 757, 778, and 791 of the 1985 Session Laws as amended remain in effect.

Sec. 241. Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1985-87 fiscal biennium or for the 1986-87 fiscal year in Chapters 479, 480, 757, 778, and 791 of the 1985 Session Laws that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

—EFFECT OF HEADINGS

Sec. 242. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

—SEVERABILITY CLAUSE

Sec. 243. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

—EFFECTIVE DATE

Sec. 244. Except as otherwise provided, this act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

S.B. 846

CHAPTER 1015

AN ACT TO PROVIDE ADDITIONAL COURT COST RECEIPTS FOR THE SUPPLEMENTAL RETIREMENT OF LOCAL LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a)(3) is rewritten to read:

“(3) For the retirement and insurance benefits of both State and local government law enforcement officers, the sum of seven dollars and twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.”

Sec. 2. G.S. 143-166.50(e) is amended by rewriting the last sentence to read:

“Additional contributions shall also be made to the individual accounts of all participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the sum of one dollar and twenty-five cents (\$1.25) for each cost of court collected under G.S. 7A-304.”

Sec. 3. This act shall become effective January 1, 1987, unless otherwise stated.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

S.B. 924

CHAPTER 1016

AN ACT TO ACHIEVE GREATER CONSISTENCY AND EQUITY IN THE SETTING OF CHILD SUPPORT OBLIGATION AMOUNTS THROUGH THE USE OF GUIDELINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4 is amended by inserting a new subsection (c1) to read:

“(c1) The Conference of Chief District Judges shall prescribe uniform statewide advisory guidelines for the computation of child support obligations of each parent as provided in Chapter 50 or elsewhere in the General Statutes.

Such advisory guidelines may provide for variation of the amount of support recommended based on one or more of the following:

- (1) The special needs of the child, including physical and emotional health needs, educational needs, day-care costs, or needs related to the child's age.
- (2) Any shared physical custody arrangements or extended or unusual visitation arrangements.
- (3) A party's other support obligations to a current or former household, including the payment of alimony.
- (4) A party's extremely low or extremely high income, such that application of the guidelines produces an amount that is clearly too high in relation to the party's own needs or the child's needs.
- (5) A party's intentional suppression or reduction of income, hidden income, income that should be imputed to a party, or a party's substantial assets.
- (6) Any support that a party is providing or will be providing other than by periodic money payments, such as lump sum payments, possession of a residence, payment of a mortgage, payment of medical expenses, or provision of health insurance coverage.
- (7) A party's own special needs, such as unusual medical or other necessary expenses.
- (8) Any other factor the court finds to be just and proper.

Notwithstanding the foregoing, the court shall hear evidence and from the evidence find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to pay support.”

Sec. 2. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

S.B. 293

CHAPTER 1017

AN ACT TO REQUIRE HEALTH ASSESSMENTS FOR KINDERGARTEN CHILDREN IN THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130A of the General Statutes is amended by inserting a new Article to read:

“Article 17.

“Health Assessments for Kindergarten Children
in the Public Schools.

“§ 130A-423. *Health assessment required.*—(a) Every child in this State entering kindergarten in the public schools shall receive a health assessment. The health assessment shall be made between the first of January prior to school entry and the 31st of December after school entry.

(b) A health assessment shall include a medical history and physical examination with screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. The health assessment may also include developmental screening which may include cognition, language, and motor function.

(c) The health assessment shall be conducted by a physician licensed to practice medicine, a certified nurse practitioner, or a public health nurse meeting the North Carolina Division of Health Services' Standards for Early Periodic Screening, Diagnosis, and Treatment Screening.

(d) This Article shall not apply to children entering kindergarten in private church schools, schools of religious charter, or qualified nonpublic schools, regulated by Article 39 of Chapter 115 of the General Statutes.

“§ 130A-424. *Reporting.*—Health assessment results shall be submitted to the school principal by the medical provider on forms developed by the Department of Human Resources and the Department of Public Instruction.

(a) Each school having a kindergarten shall maintain on file the health assessment results. The files shall be open to inspection by the Department of Human Resources, the Department of Public Instruction or their authorized representatives and persons inspecting the files shall maintain the confidentiality of the files. Upon transfer of a child to another kindergarten, a copy of the health assessment results shall be provided upon request and without charge to the new kindergarten.

(b) Within 90 days after the commencement of a new school year, the principal shall file a health assessment status report with the Department of Public Instruction on forms developed by the Department of Human Resources and the Department of Public Instruction. The report shall document the number of children in compliance and not in compliance with G.S. 130A-423(a).

“§ 130A-425. *Religious exemption.*—If the bona fide religious beliefs of the parent, guardian or person *in loco parentis* of a child are contrary to the health assessment requirements contained in this Article, this Article shall not apply to the child. Upon submission of a written statement of the bona fide religious beliefs and opposition to the health assessment requirements, the child may attend kindergarten without submitting a health assessment report.

“§ 130A-426. *Rules.*—Rules governing the contents for health assessment reports, the procedure for reporting under this Article, and those persons authorized to inspect the files shall be developed jointly by the Department of Public Instruction and the Commission for Health Services and shall be adopted by the Commission for Health Services.”

Sec. 2. This act shall become effective July 1, 1987.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 968

CHAPTER 1018**AN ACT TO PROVIDE ROADS TO THE FUTURE-PART 2.**

The General Assembly of North Carolina enacts:

Section 1. (a) The Special Appropriation for Highways funds in the amount of thirty million dollars (\$30,000,000) appropriated in Section 5 of this act may be used by the Department of Transportation only for the following purposes:

(1) Supplemental funding to provide for highway construction, reconstruction and rehabilitation for State primary, secondary and urban road systems, to correct inequities in the distribution of funds from federal-aid construction programs, and to maintain a uniform pace of construction. These funds shall be spent on the State Highway System, in a uniform manner, for the benefit of citizens throughout the State.

(2) Payment of all or any portion of the interest on or the principal of bonds of the State issued for road and highway purposes.

(3) To match unanticipated federal highway aid. Notwithstanding any other provision of law, no State funds other than the Special Appropriation for Highways funds may be used for this purpose.

(b) The Department shall report by January 15, 1987, to the chairmen of the Appropriations Committees of the Senate and the House of Representatives and the Fiscal Research Division on any plans for expending and any allocations of the Special Appropriation for Highways funds appropriated in this act.

(c) This section shall be effective July 1, 1986, through June 30, 1987. This section shall not be codified in the General Statutes.

Sec. 2. G.S. 136-28.1 (a) and (b) are amended by deleting the words "thirty thousand dollars (\$30,000)" where they appear and substituting the words "one hundred fifty thousand dollars (\$150,000)".

Sec. 3. (a) Of the funds appropriated for State Construction in Section 5 of this act, up to five million dollars (\$5,000,000) may be used by the Department of Transportation to participate in highway construction projects in which the developer or owner agrees to furnish the right-of-way free of charge to the Department of Transportation and to contract for the construction of the project. The projects eligible for participation are limited to those projects in which the developer or owner agrees to pay fifty percent (50%) or more of the construction cost. In order to qualify, the project shall be for the construction of a street or highway on the Transportation Improvement Program adopted by the Department of Transportation or on a mutually adopted thoroughfare plan and designated a Department of Transportation responsibility. Plans for the project shall be in accordance with Department of Transportation standards and shall be approved by the Department of Transportation. The Department of Transportation shall require the developer or owner to file a bond with the Department adequate to insure the State against loss in the event of the developer's or owner's failure to satisfactorily

perform the contract. In lieu of the bond, the Department may permit the developer or owner to make a deposit in cash, securities or collateral acceptable to the Department. The projects shall be constructed pursuant to the plans and specifications as approved by the Department of Transportation.

(b) The Department shall report by February 15, 1987, to the chairmen of the Appropriations Committees of the Senate and House of Representatives on any agreements entered into under subsection (a) of this section.

(c) This section shall be effective July 1, 1986, through June 30, 1987. This section shall not be codified in the General Statutes.

Sec. 4. The appropriations made in Sections 5 and 6 of this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

Sec. 5. The amounts appropriated from the Highway Fund for the 1986-87 fiscal year in the 1986-87 column of the schedule in Section 3 of Chapter 479 of the 1985 Session Laws, as amended by Section 184 of Chapter 757 of the 1985 Session Laws, are repealed, and appropriations from the Highway Fund for the expense of collecting revenues, for the service of the highway debt, and for the maintenance of transportation-related activities are made for the fiscal year ending June 30, 1987, according to the following schedule:

<i>Current Operations - Highway Fund</i>		<i>1986-87</i>
Department of Transportation		
01. Administration		\$ 20,962,563
02. Highways		
a. Administration and Operations		26,642,068
b. State Construction		
(01) Primary Construction		2,500,000
(02) Secondary Construction		55,543,750
(03) Urban Construction		23,000,000
(04) Access and Public Service Roads		2,000,000
(05) Special Appropriation for Highways		30,000,000
c. State Funds to Match Federal Highway Aid		
(01) Construction		67,160,000

Current Operations - Highway Fund

1986-87

(02)	Planning Survey and Highway Planning Research	781,324
d.	State Maintenance	
(01)	Primary	69,648,337
(02)	Secondary	124,403,445
(03)	Urban	20,800,657
(04)	Contract Resurfacing	100,376,255
e.	Ferry Operations	11,416,657
f.	State Aid to Municipalities	54,843,750
03.	Division of Motor Vehicles	52,685,983
04.	Governor's Highway Safety Program	276,698
05.	Salary Adjustments for Highway Fund Employees	200,000
06.	Debt Service	33,701,000
08.	Reserve to Correct Occupational Safety and Health	350,000
09.	Reserve for Salary Increase	39,200,000
10.	Reserve for Hospital Medical- Benefits	2,027,106
Appropriations for Other State Agencies		
01.	Crime Control and Public Safety	63,490,024
02.	Other Agencies	
a.	Department of Agriculture	1,975,636
b.	Department of Revenue	1,204,279
c.	Department of Human Resources	277,957
d.	Department of Correction	1,750,000
e.	Department of Public Education	22,508,283

<i>Current Operations - Highway Fund</i>	1986-87
Contingencies and Emergency Fund	<u>100,000</u>
GRAND TOTAL CURRENT OPERATION- HIGHWAY FUND	\$829,825,772

Sec. 6. The items and amounts appropriated for the 1986-87 fiscal year from the Highway Fund in the schedule in Section 5 of Chapter 480 of the 1985 Session Laws are reenacted, and additional appropriations are made from the Highway Fund for use by State institutions, departments, and agencies to provide for capital improvement projects according to the following schedule:

<i>Capital Improvements</i>	1986-87
01. Charlotte Maintenance and Equipment Yard	\$ 500,000
02. Ocracoke Island Ferry Facility (Supplemental)	300,000
03. Sound Class Ferry and Shore Facilities	4,000,000
04. Division Office at Greensboro	1,600,000
05. Hatteras Inlet Ferry Facility-North Dock	500,000
06. Division Office Addition at Wilson	300,000
07. Equipment Maintenance Building at Grantsboro	260,000
08. Division Equipment Shop - North Wilkesboro (Architect Only)	<u>125,000</u>
Total Capital Improvements/Highway Fund	\$7,585,000

Sec. 7. (a) Effective June 30, 1986, Section 183 of Chapter 479 of the 1985 Session Laws is rewritten to read:

"Sec. 183. Funding for the 36 process server and clerical positions in the Division of Motor Vehicles related to enforcement of the Vehicle Financial Responsibility Act shall end as these positions become vacant. Any vacancies occurring in these positions may not be filled."

(b) Effective June 30, 1986, Section 4 of Chapter 851 of the 1985 Session Laws is repealed.

Sec. 8. G.S. 20-183.7(c) is rewritten to read:

"(c) Fees collected for inspection certificates shall be paid to the Division of Motor Vehicles in accordance with its regulations and shall be periodically transferred as follows:

- (1) Seventy-five cents (75¢) of the fee for the valid inspection sticker collected pursuant to subsection (a) shall be transferred to the Highway Fund.
- (2) The fee of not less than seventy-five cents (75¢) nor more than two dollars and fifteen cents (\$2.15) collected pursuant to subsection (a1) shall be transferred as follows: the first thirty-five cents (35¢) to the Division of Environmental Management and any excess up to one dollar and eighty cents (\$1.80) to the Highway Fund."

Sec. 9. All funds remaining unencumbered in "The Safety Inspection Monitoring Fund" created by Chapter 415 of the 1985 Session Laws on the effective date of this section shall revert to the Highway Fund.

Sec. 10. The people hired to monitor the Equipment Inspection of Motor Vehicles previously receiving their compensation from "The Safety Inspection Monitoring Fund" shall be paid after the effective date of this section from the Highway Fund.

Sec. 11. (a) G.S. 136-27.1 is amended by deleting "5,000", and substituting "5,500".

(b) This section shall become effective June 1, 1986, and applies only to State highway improvement projects let to contract on or after that date.

Sec. 12. (a) Funds are appropriated in Section 5 of this act to the Department of Crime Control and Public Safety for an additional 50 troopers for the Highway Patrol. These 50 troopers may not be assigned to any duty other than full-time enforcement of the traffic laws by patrolling the roads except when absence therefrom is required for court appearances, training mandated by statutes or compliance with the rules of the North Carolina Criminal Justice Education and Training Standards Commission, or administrative work directly arising out of road patrol or court appearance. Also, no additional administrative positions may be created that decrease the number of members of the Highway Patrol assigned to road patrol as essentially full-time duty.

The Secretary of Crime Control and Public Safety shall report before November 1, 1986, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the name, rank, duty station, and duties of all members of the Highway Patrol above the rank of line sergeant and all members of whatever rank assigned to any headquarters at the troop or higher level, including those assigned to Governor's Security.

(b) This section is not intended to prevent the Department of Crime Control and Public Safety from assigning troopers to normal special duties to which troopers are ordinarily assigned.

Sec. 13. Effective June 30, 1986, Section 164 of Chapter 757 of the 1985 Session Laws is repealed.

Sec. 14. Of the funds appropriated to the Department of Transportation for fiscal year 1986-87 in Section 5 of this act, twenty million dollars (\$20,000,000) shall be allocated for Small Urban Construction projects. Of these funds, fourteen million dollars (\$14,000,000) shall be allocated equally among the 14 Highway Divisions for the Small Urban Construction Program for small urban construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits. The remaining six million dollars (\$6,000,000) shall be used statewide for rural or small urban highway improvements as approved by the Secretary of the Department of Transportation.

None of these funds used for rural secondary road construction are subject to the county formula allocation as provided by G.S. 136-44.5.

Sec. 15. Notwithstanding the provisions of G.S. 136-41.1 and G.S. 136-44.2A, the amount appropriated in this act shall be the basis for distribution to municipalities due on or before October 1, 1986.

Sec. 16. (a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 1987-88	\$832,410,000
For Fiscal Year 1988-89	\$849,050,000

(b) Section 7 of Chapter 479 of the 1985 Session Laws is repealed.

Sec. 17. The Director of the Budget may transfer funds from the salary increase reserve fund in Section 5 of this act, for the same purposes as funds may be transferred under Sections 19 and 24 of Chapter 1014, Session Laws of 1985 from the salary increase reserve fund created by Section 2 of that act.

Sec. 18. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Sec. 19. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1986-87 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1986-87 fiscal year.

Sec. 20. Except where expressly repealed or amended by this act, the provisions of Chapters 479, 480, 757, 778, 791 and 1014 of the 1985 Session Laws as amended remain in effect.

Sec. 21. Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1985-87 fiscal biennium or for the 1986-87 fiscal year in Chapters 479, 480, 757, 778, 791 and 1014 of the 1985 Session Laws that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

Sec. 22. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

Sec. 23. If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 24. Except as otherwise provided for, this act is effective July 1, 1986.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 2130

CHAPTER 1019

AN ACT CONCERNING LOCAL LAW OFFICERS'S RETIREMENT.

Whereas, local governments were authorized by the 1983 General Assembly in Chapter 908, Session Laws of 1983, to levy an additional one-half cent sales tax; and

Whereas, both the House and Senate have in 1986 passed a bill to authorize an additional one-half cent sales tax for local governments; and

Whereas, local governments would raise over three hundred fifty million dollars (\$350,000,000) annually from these two taxes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Effective July 1, 1987, G.S. 143-166.50(e) is amended by adding a new sentence at the end of the first paragraph to read: "From July 1, 1987, until July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to at least two percent (2%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers; and on and after July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to five percent (5%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers."

Sec. 2. Article 12D of Chapter 143 of the North Carolina General Statutes is amended by adding a section to read:

"§ 143-166.42. *Special separation allowances for local officers.*—(a) On and after January 1, 1987, the provisions of G.S. 143-166.41 shall apply to all eligible law enforcement officers as defined by G.S. 128-21(11b) or G.S. 143-166.50(a)(3) who are employed by local government employers, except as may be provided by this section. As to the applicability of the provisions of G.S. 143-166.41 to locally employed officers, the governing body for each unit of local government shall be responsible for making determinations of eligibility for their local officers retired under the provisions of G.S. 128-27(a) and for making payments to their eligible officers under the same terms and conditions, other than the source of payment, as apply to each State department, agency, or institution in payments to State officers according to the provisions of G.S. 143-166.41."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 2131

CHAPTER 1020

AN ACT TO MAKE CHANGES IN THE COMPREHENSIVE MAJOR MEDICAL PLAN FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-39(h) is amended in the first line by deleting the word "Commission" and substituting the words "Board of Trustees".

Sec. 2. Effective July 1, 1986, G.S. 135-39.4(c) and (e) are repealed. Effective October 1, 1986, G.S. 135-39.4 (a) and (b) are repealed.

Sec. 3. G.S. 135-39.5(15) is amended in the first and second lines by deleting the words "or failure to contract under G.S. 135-39.4(b),".

Sec. 4. Effective January 1, 1987, G.S. 135-40.6(8)a. is amended in the first line by adding between the words "drugs" and "for" the words "in excess of the first two dollars (\$2.00) per prescription for generic drugs

and brand name drugs without a generic equivalent and in excess of the first three dollars (\$3.00) per prescription for brand name drugs”.

Sec. 5. (a) Effective January 1, 1987, G.S. 135-40.1(7) is amended in the 12th line by deleting the phrase “(3), or (5)” and substituting the phrase “or (3)” and in the 17th and 18th lines by deleting the phrase “(3), or (5)” and substituting the phrase “or (3)”.

(b) G.S. 135-40.3(d)(4) and (5) are repealed effective January 1, 1987.

Sec. 6. G.S. 135-39.5B is amended in the seventh line by inserting between the words “noncontributory” and “basis” the phrase “Employee Only” and by adding a new sentence immediately preceding the last sentence to read: “The amount of State funds contributed to such optional plans shall also not exceed the amount of an optional plan’s cost for Employee Only coverage.”

Sec. 7. G.S. 135-39.9(c) is repealed.

Sec. 8. G.S. 135-40(b) is amended by deleting the words “Parts I through K of” in the fifth and sixth lines and by deleting the words “Parts I through K” in the tenth line and substituting the words “the request for proposals.”

Sec. 9. G.S. 135-40.1(7) is amended in the 13th line by adding after the word “birth” the phrase “without any waiting period for preexisting health conditions.” and in the 15th line by inserting between the words “birth” and “so” the phrase “without any waiting period for preexisting health conditions”.

Sec. 10. G.S. 135-40.5(d) is amended in the second paragraph, sixth line by deleting the word “knee” and substituting the phrase “knee (except in procedures involving orthoscopic surgery when the diagnosis and the surgery can be performed in the same procedure and through the same incision).”

Sec. 11. G.S. 135-40.6(2)f. is amended in the seventh line by deleting the phrase “July 1, 1986” and substituting the phrase “January 1, 1987”.

Sec. 12. Retroactive to July 1, 1985, G.S. 135-40.6(5)a. is amended in the second paragraph by adding before the word “corneal” the word “liver.”

Sec. 13. G.S. 135-40.6(8)m. is amended by rewriting the section to read:

“m. Cardiac Rehabilitation: Charges not to exceed six hundred fifty dollars (\$650.00) per fiscal year for cardiac testing and exercise therapy, when determined medically necessary by an attending physician and approved by the Claims Processor for patients with a medical history of myocardial infarction, angina pectoris, arrhythmias, cardiovascular surgery, hyperlipidemia, or hypertension, provided such charges are incurred in a medically supervised facility fully certified by the North Carolina Department of Human Resources.”

Sec. 14. G.S. 135-40.6(8)o. is amended by rewriting the paragraph to read:

“o. Foot Surgery: All foot surgery on bones and joints in excess of one thousand dollars (\$1,000), except for emergencies, shall require prior approval from the Claims Processor.”

Sec. 15. G.S. 135-40.6(8) is amended by adding a new subdivision p. to read:

“p. Outpatient Diabetes Self-Care Programs: Charges, not to exceed three hundred dollars (\$300.00) per fiscal year, when determined to be medically necessary by an attending physician and approved by the Executive Administrator and Claims Processor as meeting the standards of the National Diabetes Advisory Board for patients with a medical history of diabetes, provided such charges are incurred in a medically supervised facility.”

Sec. 16. G.S. 135-40.7 is amended by adding a new subdivision to read:

“(17) If a covered service becomes excluded from coverage under the Plan, the Executive Administrator and Claims Processor may, in the event of exceptional situations creating undue hardships or adverse medical conditions, allow persons enrolled in the Plan to remain covered by the Plan’s previous coverage for up to three months after the effective date of the change in coverage, provided the persons so enrolled had been undergoing a continuous plan of specific treatment initiated within three months prior to the effective date of the change in coverage.”

Sec. 17. Effective October 1, 1986, G.S. 135-40.8(b) is amended by deleting the phrase “one thousand dollars (\$1,000)” and substituting the phrase “five hundred dollars (\$500).”

Sec. 18. G.S. 135-40.10 is amended by adding a new subsection to read:

“(d) Notwithstanding the foregoing provisions of this section or any other provisions of the Plan, the Executive Administrator and Board of Trustees may enter into negotiations with the Health Care Financing Administration, U.S. Department of Health and Human Services, in order to secure a more favorable coordination of the Plan’s benefits with those provided by Medicare, including but not limited to, measures by which the Plan would provide Medicare benefits for all of its Medicare-eligible members in return for adequate payments from the federal government in providing such benefits. Should such negotiations result in an agreement favorable to the Plan and its Medicare-eligible members, the Executive Administrator and Board of Trustees may, after consultation with the Committee on Employee Hospital and Medical Benefits, implement such an agreement which shall supersede all other provisions of the Plan to the contrary related to its payment of claims for Medicare-eligible members.”

Sec. 19. G.S. 135-40.11(c) is amended by deleting the phrase “the Teachers’ and State Employees’ Retirement System of North Carolina.” and substituting the phrase “a State-supported Retirement System.”

Sec. 20. Article 3 of Chapter 135 of the General Statutes is amended by deleting the words “Plan Administrator” wherever found and substituting the words “Claims Processor.”

Sec. 21. G.S. 135-40.7 is amended by adding the following new subdivision:

“(18) Charges for services unless a claim is filed within 18 months from the date of service.”

Sec. 22. Part 3 of Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

“§ 135-40.6A. *Prior approval procedures.*—(a) The Executive Administrator and Board of Trustees shall establish procedures to require prior medical approvals for the following services:

- (1) Home Health Care Agency Services in accordance with G.S. 135-40.6(8)c.
- (2) Inpatient Psychiatric Care (after initial 30 days) in accordance with G.S. 135-40.6(1)r.
- (3) Ambulance Transport over 50 miles in accordance with G.S. 135-40.6(8)d.
- (4) Oral Surgery in accordance with G.S. 135-40.6(5)c.
- (5) Durable Medical Equipment (rental and purchase) in accordance with G.S. 135-40.6(8)e.
- (6) Covered Transplants in accordance with G.S. 135-40.6(5)a.
- (7) Foot Surgery in accordance with G.S. 135-40.6(8)o.

(b) The Executive Administrator and Board of Trustees may establish procedures to require prior medical approvals for the following services:

- (1) Skilled Nursing Facility Care (after the initial 30 days);
- (2) Private Duty Nursing;
- (3) Speech Therapy (unless rendered in an inpatient hospital);
- (4) Physical Therapy (in the home);
- (5) Argon Laser Trabeculoplasty;
- (6) Radioallergosorbent Test (RAST);
- (7) Surgical Procedures:
 - a. Elepharoplasties
 - b. Surgery for Hermaphroditism
 - c. Excision of Keloids
 - d. Reduction Mammoplasty
 - e. Morbid Obesity Surgery
 - f. Penile Prosthesis
 - g. Excision of Gynecomastia
 - h. Cochlear Implants
 - i. Revision of the Nasal Structure
- (8) Subcutaneous injection of ‘filling’ material (Example: zyderm, silicone); and
- (9) Suction Lipectomy

(c) No procedure for prior approval may be established except as provided by this section as it may be amended from time to time.”

Sec. 23. G.S. 135-40.6(4)a. is amended by deleting “When services are furnished with 30 days of the actual occurrence of injury and provided treatment is initiated within five days of injury occurrence” and substituting “All covered services”.

Sec. 24. G.S. 135-40.1(1a) is amended in the first line by inserting between the words “Any” and “necessary” the word “medically”.

Sec. 25. G.S. 135-40.7(2) is amended in the first line by deleting the word “or” and in the second line by adding between the words “home” and “for” the phrase “, or in any other facility or location”.

Sec. 26. G.S. 135-40.7(5) is amended in the last line between the words “the” and “necessary” the word “medically”.

Sec. 27. G.S. 135-40.1(6) is amended in the fourth and fifth lines by deleting the phrase “the Teachers’ and State Employees’ Retirement

System.” and substituting the phrase “a State-supported Retirement System.”

Sec. 28. Effective October 1, 1986, Section 21.12 of Chapter 922 of the 1983 Session Laws is repealed.

Sec. 29. Compliance with the Consolidated Omnibus Budget Reconciliation Act of 1985.

(a) G.S. 135-40.2(a)(3) is amended in the last line by adding after the word “programs”, the words “provided the death of the former Plan member occurred prior to October 1, 1986”.

(b) Effective January 1, 1988, G.S. 135-40.2(a)(3) is repealed.

(c) G.S. 135-40.2(b)(2) is rewritten to read: “(2) Former members of the General Assembly who enroll before October 1, 1986.”

(d) G.S. 135-40.2(b) is amended by adding a new subdivision to read:

“(2a) For enrollments after September 30, 1986, former members of the General Assembly if covered under the Plan at termination of membership in the General Assembly.”

(e) G.S. 135-40.2(b)(3) is rewritten to read: “(3) Surviving spouses of deceased former members of the General Assembly who enroll before October 1, 1986.”

(f) G.S. 135-40.2(b) is amended by adding a new subdivision to read:

“(3b) For enrollments after September 30, 1986, surviving spouses of deceased former members of the General Assembly, if covered under the Plan at the time of death of the former member of the General Assembly.”

(g) Effective October 1, 1986, G.S. 135-40.2(b) is amended by adding a new subsection to read:

“(8) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, and members of the General Assembly provided the death of the former Plan member occurred after September 30, 1986, and the surviving spouse was covered under the Plan at the time of death.”

(h) Effective January 1, 1988, G.S. 135-40.2(b) is amended by adding a new subdivision to read:

“(9) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, and members of the General Assembly provided the death of the former Plan member occurred prior to October 1, 1986.”

(i) Effective October 1, 1986, G.S. 135-40.2(b)(5) is rewritten to read:

“(5) The spouses and eligible dependent children of enrolled employees, retirees, and members of the General Assembly.”

(j) G.S. 135-40.2(b)(7) is repealed.

(k) G.S. 135-40.2(b) is amended in the first and second lines by deleting the phrase “in a full” and substituting the phrase “on a fully”.

(l) Effective October 1, 1986, G.S. 135-40.2(b) is amended by adding a new subdivision to read:

“(10) Any eligible dependent child of the deceased retiree, teacher, State employee, or member of the General Assembly, provided the child was covered at the time of death of the retiree, teacher, State employee, or member of the General Assembly (or was *in esse* at the time and is covered at birth under this Part), or was covered under the Plan on September 30, 1986. Any eligible spouse or dependent child of a person

eligible under subdivisions (8) or (9) of this subsection if the spouse or dependent child was enrolled before October 1, 1986.”

(m) Effective October 1, 1986, G.S. 135-40.11(a)(1) is rewritten to read:

“(1) The last day of the month in which an employee or retired employee dies. Provided such surviving spouse or eligible dependent children were covered under the Plan at the time of death of the former employee or retired employee, or were covered on September 30, 1986, any such surviving spouse or eligible dependent children may then elect to continue coverage under the Plan by submitting written application to the Claims Processor and by paying the cost for such coverage when due at the applicable fees. Such coverage shall cease on the last day of the month in which such surviving spouse or eligible dependent children die, except as provided by this Article.”

(n) The first paragraph of G.S. 135-40.11(a) is amended before the colon by deleting “dependents” both places those words appear, and substituting “Surviving spouse or eligible dependent children”.

(o) G.S. 135-40.11(a)(3) is amended by rewriting the section to read:

“(3) The last day of the month in which a divorce becomes final.”

(p) Effective October 1, 1986, G.S. 135-40.11(b) is rewritten to read:

“(b) Coverage under this Plan as a dependent child ceases when the child ceases to be a dependent child as defined by G.S. 135-40.1(3) except, coverage may continue under this Plan for a period of not more than 36 months after loss of dependent status on a fully contributory basis provided the dependent child was covered under the Plan at the time of loss of dependent status.”

(q) Effective October 1, 1986, G.S. 135-40.11(c)(1) is amended by rewriting the section to read:

“(1) In the event of termination for any reason other than death, coverage under the Plan for an employee and his or her eligible spouse or dependent children, provided the eligible spouse or dependent children were covered under the Plan at termination of employment or were covered on September 30, 1986, may be continued for a period of not more than eighteen months following termination of employment on a fully contributory basis.”

(r) G.S. 135-40.11(c)(2) is repealed.

(s) Effective October 1, 1986, G.S. 135-40.11 is amended by adding a new subsection to read:

“(e) A legally divorced spouse and any eligible dependent children of a covered employee or retired employee may continue coverage under this Plan for a period of not more than thirty-six months following the first of the month after a divorce becomes final on a fully contributory basis, provided the former spouse and any eligible dependent children were covered under the Plan at the time a divorce became final.”

(t) Effective October 1, 1986, G.S. 135-40.11 is amended by adding a new subsection to read:

“(f) A legally separated spouse of a covered employee or retired employee may continue coverage under this Plan for a period not to exceed thirty-six months from the separation date on a fully contributory basis, provided the separated spouse was covered under the Plan at the time of

separation and provided the covered employee's or retired employee's actions result in the loss of coverage for the separated spouse. Eligible dependent children may also continue coverage if covered under the Plan at time of separation, provided the employee's or retired employee's actions result in the loss of coverage for the dependent children."

(u) G.S. 135-40.11 is amended by adding a new subsection to read:

"(g) Whenever this section gives a right to continuation coverage, such coverage must be elected no later than a date set by the Executive Administrator and Board of Trustees."

(v) Effective October 1, 1986, G.S. 135-40.11 is amended by adding a new subsection to read:

"(h) Continuation coverage under this Plan shall not be continued past the occurrence of any one of the following events:

- (1) The termination of the Plan.
- (2) Failure of a Plan member to pay monthly in advance any required premiums.
- (3) A member becomes a covered employee under any group health plan or, in the case of a surviving spouse, when the surviving spouse remarries and becomes covered under a group health plan.
- (4) A member becomes eligible for Medicare benefits."

(w) G.S. 135-40.11 is amended by adding a new section to read:

"(i) Notice requirements concerning continuation coverage shall be developed by the Executive Administrator and Board of Trustees."

(x) G.S. 135-40.11 is amended by adding a new section to read:

"(j) The spouse and any eligible dependent children of a covered employee may continue coverage under the Plan on a fully contributory basis for a period not to exceed 36 months from the date the employee becomes eligible for Medicare benefits which results in a loss of coverage under the Plan, provided that the spouse and eligible dependent children were covered under the Plan at the time the employee became eligible for Medicare benefits which results in a loss of coverage under the Plan."

(y) This section shall be effective October 1, 1986, unless otherwise specified.

Sec. 30. Effective October 1, 1986, G.S. 135-40.13(c)(4) is amended by deleting sub-subdivision b., by redesignating sub-subdivision c. as sub-subdivision e. and by adding three new sub-subdivisions to read:

"b. Except as stated in sub-subdivision c. of this subdivision when this Plan and another Plan cover the same child as a dependent of different persons called parents:

1. the benefits of the Plan of the parent whose birthday falls earlier in the calendar year are determined before the benefits of the Plan of the parent whose birthday falls later in the calendar year; but
2. if both parents have the same birthday, the benefits of the Plan that has covered a parent for a longer period of time are determined before those of the Plan that has covered the other parent for a shorter period of time; however, if the other Plan has a rule based on the gender of the parent, and if as a result, the Plans do not agree on the order of benefits, the rule in the other Plan will determine the order of benefits.

c. If two or more Plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

1. first, the Plan of the parent with custody of the child;
2. second, the Plan of the spouse of the parent with custody of the child; and
3. third, the Plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the Plan of that parent has actual knowledge of those terms, the benefits of that Plan are determined first. This paragraph does not apply with respect to any claim determination period or Plan year during which any benefits are actually paid or provided before the entity has actual knowledge.

d. The benefits of a Plan that covers the person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a Plan that covers that person as a laid-off or retired employee (or as that employee's dependent). If the other Plan does not have this rule, and if, as a result, the Plans do not agree on the order of benefits, this rule is ignored."

Sec. 31. Unless otherwise specified by this act, this act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 1482

CHAPTER 1021

AN ACT TO APPROPRIATE FUNDS TO REPAIR THE DAM AT THE BETSY-JEFF PENN 4-H CENTER AND TO PROVIDE FOR A FULL-TIME DIRECTOR AT THE CENTER.

Whereas, 4-H is currently serving 104,000 boys and girls in the State; and

Whereas, with volunteer-led programs and contributions of time valued at twenty million dollars (\$20,000,000) annually, 4-H has and will continue to make a difference in the lives of both adults and youths in our State; and

Whereas, 4-H camps located throughout the State allow young people to have developmental camping experiences at minimal cost, and also to experience the diversity of North Carolina by attending different camps in different years; and

Whereas, twenty-five percent (25%) of 4-H campers are minorities and twenty-four percent (24%) qualify for food discounts from U.S.D.A.; and

Whereas, the camps provide the best possible learning experiences to young people at the least possible cost; and

Whereas, more than 5,500 young people participate in 4-H camp programs each year and more than 10,000 people including 4-H'ers, and adult volunteers use the 4-H camps each year for weekend retreats, conferences, and off-season outings; and

Whereas, the operating expenses of the camps are totally paid through user fees; and

Whereas, specific problems exist at the 4-H camps that require immediate financial assistance of amounts not recoverable in user fees if 4-H is to continue to offer services within the means of most North Carolinians; and

Whereas, serious deficiencies exist at the Lake Hazel Dam at the Betsy-Jeff Penn 4-H Camp; and

Whereas, if the Betsy-Jeff Penn 4-H Center is to continue to offer services to a wide range of clients on a year-round basis, it needs a full-time director; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Of the funds appropriated in Section 2 of House Bill 2055 of the 1985 Session Laws to the Reserve for Hospital-Medical Benefits, the sum of one hundred twenty thousand dollars (\$120,000) is transferred to the General Fund and is appropriated from the General Fund to the North Carolina 4-H Development Fund, Inc., for fiscal year 1986-87 for the renovation of the Lake Hazel Dam at the Betsy-Jeff Penn 4-H Camp.

Sec. 2. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

S.B. 1295

CHAPTER 1022

AN ACT TO MAKE AMENDMENTS TO THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 150B of the General Statutes is amended as follows:

(1) By deleting the words "chief hearing officer" each time they appear and substituting the word "Director";

(2) G.S. 150B-2(2a) is amended by deleting from the first sentence the phrase "and either has not been delayed by or has been returned to the Administrative Rules Review Commission as required by G.S. 143A-55.3." and substituting the phrase "and, if applicable, that the time specified in that section has elapsed."

(3) G.S. 150B-2 is amended by adding a new subsection (2b) to read:

"(2b) 'Hearing officer' means an administrative law judge appointed under G.S. 7A-753 or an agency employee or person or group of persons designated by an agency to preside in a contested case hearing under this Chapter."

(4) G.S. 150B-2(2) is rewritten to read:

"'Contested case' means an administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. 'Contested case' does not include rulemaking, declaratory rulings, or the award or denial of a scholarship or grant."

(5) G.S. 150B-2(9) is amended by deleting from the second sentence the words "is made" and substituting the word "becomes".

(6) G.S. 150B-10 is amended by deleting the words "Administrative Rules Review Commission" and substituting the words "Director of the Office of Administrative Hearings".

(7) G.S. 150B-12(g) is amended by deleting the words "Administrative Rules Review Commission certifies" and substituting the words "Director of the Office of Administrative Hearings determines".

(8) G.S. 150B-13(a) is amended by designating the third sentence as subsection (a1) and by rewriting subdivision (2) of that sentence to read:

"The chairman of the board in the case of an occupational licensing board or the Director of the Office of Administrative Hearings in the case of that agency."

(9) G.S. 150B-23 is amended as follows:

(1) by repealing subsection (a1);

(2) by adding the word "and" at the end of subdivision (b)(2);

(3) by deleting "; and" from subdivision (b)(3) and substituting a period; and

(4) by repealing subdivision (b)(4).

(10) G.S. 150B-23(a) is amended as follows:

(1) by rewriting the fourth and fifth sentences to read:

"All contested cases under Chapter 126 of the General Statutes shall be conducted in the Office of Administrative Hearings, and no party may waive the right to have the case conducted in the Office of Administrative Hearings. In other contested cases, if a nonagency party commences the case, that party may waive the right to have the case conducted in the Office of Administrative Hearings in the petition filed to commence the case. If an agency commences the contested case, a nonagency party-respondent may, within 15 days of service of the petition, waive the right to have the contested case conducted in the Office of Administrative Hearings by notifying the Director of the Office of Administrative Hearings in writing. If there is more than one nonagency party-respondent, the waiver shall not be effective unless joined by all of these parties."; and

(2) by inserting between the first and second sentences a new sentence to read:

"The party who files the petition shall also serve a copy of the petition on all other parties and shall file a certificate of service together with the petition."; and

(3) by rewriting the current ninth and tenth sentences to read:

"The case shall be conducted in the Office of Administrative Hearings in the same manner as other contested cases under this Article, except that the decision of the State Personnel Commission shall be advisory only and not binding on the local appointing authority, unless (1) the employee, applicant, or former employee has been subjected to discrimination prohibited by Article 6 of Chapter 126 of the General Statutes or (2) applicable federal standards require a binding decision. In these two cases, the State Personnel Commission's decision shall be binding."; and

(4) by deleting from the first sentence the phrase "Except as provided in subsection (a1), all" and substituting the word "All".

(11) Article 3 of Chapter 150B is amended by adding a new section to read:

“§ 150B-22. *Settlement; contested case.*—It is the policy of this State that any dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty, should be settled through informal procedures. In trying to reach a settlement through informal procedures, the agency may not conduct a proceeding at which sworn testimony is taken and witnesses may be cross-examined. Notwithstanding any other provision of law, if the agency and the other person do not agree to a resolution of the dispute through informal procedures, either the agency or the person may commence an administrative proceeding to determine the person's rights, duties, or privileges, at which time the dispute becomes a ‘contested case’.”

(12) G.S. 150B-32(b) is amended by deleting the word “agency” and substituting the words “hearing officer”.

(13) G.S. 150B-25(b) is amended by deleting the second sentence.

(14) G.S. 150B-26 is amended by deleting the second sentence.

(15) G.S. 150B-32(a1) is repealed.

(16) G.S. 150B-36 is amended by rewriting the third sentence to read:

“The agency may consider only the official record prepared pursuant to G.S. 150B-37 in making a final decision or order, and the final decision or order shall be supported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31.”;

and is further amended by deleting the period at the end of the last sentence and substituting the following:

“and the Office of Administrative Hearings.”

(17) G.S. 150B-44 is amended by adding a new sentence at the end to read:

“An agency's failure to make a final decision within 60 days of receiving the official record from the hearing officer constitutes an unreasonable delay; provided that boards and commissions shall make a final decision at their next regularly scheduled meeting, but in any case no later than 120 days after the official record is received.”

(18) The first sentence of G.S. 150B-47 is amended by inserting between the word “the” and the word “agency” the following:

“Office of Administrative Hearings, or if that office did not conduct the contested case, the”.

(19) G.S. 150B-63(e) is amended by deleting the word “Reference” at the beginning and substituting the following:

“Notwithstanding G.S. 147-50, reference”;

and is further amended by inserting between the phrase “without charge,” and the word “to” the word “only”.

(20) G.S. 150B-63.1 is repealed.

Sec. 2. G.S. 7A-343.1 is amended by inserting between the line that begins with “Industrial Commission” and the line that begins with “Employment Security Commission” the following lines:

“Office of Administrative Hearings 2”
“Community Colleges, Department of 1”.

Sec. 3. G.S. 7A-752 is amended by deleting from the second, third, and fourth sentences the words “chief hearing officer” each time they appear and substituting the word “Director”; and is further amended by deleting from the fifth sentence the phrase “and chief hearing officer”.

Sec. 4. G.S. 7A-753 is amended by deleting the word “five”; and is further amended by deleting the period at the end of the first sentence and substituting the following:

“in such numbers as the General Assembly provides.”;
and is further amended by deleting from the second sentence the following:
“, with the approval of the Chief Justice.”.

Sec. 5. G.S. 7A-757 is amended by deleting from the third sentence the phrase:

“These temporary hearing officers shall not be employees of the State but” and substituting the following: “A temporary hearing officer shall not be considered a State employee by virtue of this assignment, and”;
and is further amended by deleting the word “their” and substituting the word “his”; and is further amended by adding a new sentence at the end to read:

“The Director may also designate a full-time State employee to serve as a temporary hearing officer with the consent of the employee and his supervisor; however, the employee is not entitled to any additional pay for this service.”

Sec. 6. G.S. 150B-23(a), 150B-38(e), 150B-40(e), and 7A-752 through 7A-756 are amended as follows:

(1) by deleting the words “chief hearing officer” each time they appear and substituting the words “chief administrative law judge”, except that this subsection shall not apply to G.S. 7A-752, 150B-23(a), or 150B-40(e);

(2) by deleting the words “hearing officers” each time they appear and substituting the words “administrative law judges”;

(3) by deleting the words “hearing officer” each time they appear and substituting the words “administrative law judge”; and

(4) by deleting from G.S. 150B-40(e) the words “hearing officer’s” and substituting the words “administrative law judge’s”.

The Revisor of Statutes shall change any articles that precede the words amended in this section to make them grammatically correct.

Sec. 7. Section 19 of Chapter 746 of the 1985 Session Laws is amended by deleting from the third sentence the word “advisory”.

Sec. 8. G.S. 84-4.1 is amended by inserting immediately after the phrase “or the North Carolina Industrial Commission” each time it appears the phrase “or the Office of Administrative Hearings of North Carolina”.

Sec. 9. G.S. 126-5(h) is rewritten to read:

“In case of dispute as to whether an employee is subject to the provisions of this Chapter, the question shall be investigated by the State Personnel Office, and the dispute shall be resolved as provided in Article 3 of Chapter 150B.”

Sec. 10. G.S. 126-37 is amended by rewriting the second sentence to read:

"Appeals involving a disciplinary action, alleged discrimination, and any other contested case arising under this Chapter shall be conducted in the Office of Administrative Hearings as provided in Article 3 of Chapter 150B; provided that no grievance may be appealed unless the employee has complied with G.S. 126-34."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

S.B. 1306

CHAPTER 1023

AN ACT TO MAKE CERTAIN CHANGES IN THE WATER POLLUTION LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.1 is amended by rewriting the third unnumbered paragraph of subsection (a) as follows:

"In connection with the above, no such permit shall be granted for the disposal of waste in waters classified as sources of public water supply where the Department of Human Resources, after review of the plans and specifications for the proposed disposal facility, determines and advises the Environmental Management Commission that such disposal is sufficiently close to the intake works or proposed intake works of a public water supply as to have an adverse effect on the public health."

Sec. 2. G.S. 143-215.1(c) is amended by rewriting its heading to read as follows:

"(c) Applications for Permits and Renewals for Facilities Discharging to the Surface Waters."

Sec. 3. G.S. 143-215.1(c)(1) is amended by deleting from its first sentence the words "pretreatment facilities,".

Sec. 4. G.S. 143-215.1(c)(2)a. is amended by deleting from its first sentence the words "pretreatment facilities,".

Sec. 5. G.S. 143-215.1(d) is amended by rewriting its heading to read as follows: "Applications and Permits for Sewer Systems, Sewer System Extensions and Pretreatment Facilities, and for Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State." and by adding at the end of the paragraph, following the words "modified or revoked by the Environmental Management Commission." the following sentence: "Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received."

Sec. 6. The provisions of this bill notwithstanding, any permit for pretreatment facilities previously issued in substantial compliance with the provisions of this bill and of G.S. 143-215.1 as amended thereby, is valid and in full force and effect if such permit has neither expired nor otherwise has been revoked.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 2136

CHAPTER 1024

AN ACT TO ESTABLISH THE OFFICE OF THE STATE CONTROLLER.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

“Part 28. Office of the State Controller.

“§ 143B-426.35. *Definitions.*—As used in this Part, unless the context clearly indicates otherwise:

(1) ‘Accounting system’ means the total structure of records and procedures which discover, record, classify, and report information on the financial position and operating results of a governmental unit or any of its funds, balanced account groups, and organizational components.

(2) ‘Office’ means the Office of the State Controller.

(3) ‘State agency’ means any State agency as defined in G.S. 147-64.4(b)(2).

(4) ‘State funds’ means any moneys appropriated by the General Assembly, or moneys collected by or for the State, or any agency of the State, pursuant to the authority granted in any State laws.

“§ 143B-426.36. *Office of the State Controller; creation.*—There is created the Office of the State Controller. This office shall be located administratively within the Department of Administration but shall exercise all of its prescribed statutory powers independently of the Secretary of Administration.

“§ 143B-426.37. *State Controller.*—(a) The Office of the State Controller shall be headed by the State Controller who shall maintain the State accounting system and shall administer the State disbursing system.

(b) The State Controller shall be a person qualified by education and experience for the office. He shall be appointed by the Governor subject to confirmation by the General Assembly. The term of office of the State Controller shall be for seven years; the first full term shall begin July 1, 1987.

The Governor shall submit the name of the person to be appointed, for confirmation by the General Assembly, to the President of the Senate and the Speaker of the House of Representatives by May 1 of the year in which the State Controller is to be appointed. If the Governor does not submit the name by that date, the President of the Senate and the Speaker of the House of Representatives shall submit a name to the General Assembly for confirmation.

In case of death, incapacity, resignation, removal by the Governor for cause, or vacancy for any other reason in the Office of State Controller prior to the expiration of his term while the General Assembly is in session, the Governor shall submit the name of his successor to the President of the Senate and the Speaker of the House of Representatives within four weeks after the vacancy occurs. If the Governor does not do

so, the President of the Senate and the Speaker of the House of Representatives shall submit a name to the General Assembly for confirmation.

In case of death, incapacity, resignation, removal by the Governor for cause, or vacancy for any other reason in the Office of State Controller prior to the expiration of his term while the General Assembly is not in session, the Governor shall appoint a State Controller to serve on an interim basis pending confirmation by the General Assembly.

Notwithstanding the provisions of this section, the Governor may appoint a State Controller to serve from the effective date of this act until July 1, 1987, or until the 1987 General Assembly disapproves the appointment.

(c) The salary of the State Controller shall be set by the General Assembly in the Budget Appropriations Act.

“§ 143B-426.38. *Organization and operation of office.*—(a) The State Controller may appoint a Chief Deputy State Controller. The salary of the Chief Deputy State Controller shall be set by the State Controller.

(b) The State Controller may appoint all employees necessary to carry out his powers and duties. These employees shall be subject to the State Personnel Act.

(c) All employees of the office shall be under the supervision, direction, and control of the State Controller. Except as otherwise provided by this Part, the State Controller may assign any function vested in him or his office to any subordinate officer or employee of the office.

(d) The State Controller may, subject to the provisions of G.S. 147-64.7(b)(2), obtain the services of independent public accountants, qualified management consultants, and other professional persons or experts to carry out his powers and duties.

(e) The State Controller shall have legal custody of all books, papers, documents, and other records of the office.

(f) The State Controller shall be responsible for the preparation of and the presentation of the office budget request, including all funds requested and all receipts expected for all elements of the budget.

(g) The State Controller may adopt regulations for the administration of the office, the conduct of employees of the office, the distribution and performance of business, the performance of the functions assigned to the State Controller and the office of the State Controller, and the custody, use, and preservation of the records, documents, and property pertaining to the business of the office.

“§ 143B-426.39. *Powers and duties of the State Controller.*—The State Controller shall:

(1) Prescribe, develop, operate, and maintain in accordance with generally accepted principles of governmental accounting, a uniform state accounting system for all state agencies. The system shall be designed to assure compliance with all legal and constitutional requirements including those associated with the receipt and expenditure of, and the accountability for public funds.

(2) On the recommendation of the State Auditor, prescribe and supervise the installation of any changes in the accounting systems of an

agency that, in the judgement of the State Controller, are necessary to secure and maintain internal control and facilitate the recording of accounting data for the purpose of preparing reliable and meaningful statements and reports. The State Controller shall be responsible for seeing that a new system is designed to accumulate information required for the preparation of budget reports and other financial reports.

(3) Maintain complete, accurate and current financial records that set out all revenues, charges against funds, fund and appropriation balances, interfund transfers, outstanding vouchers, and encumbrances for all State funds and other public funds including trust funds and institutional funds available to, encumbered, or expended by each State agency, in a manner consistent with the uniform State accounting system.

(4) Prescribe the uniform classifications of accounts to be used by all State agencies including receipts, expenditures, assets, liabilities, fund types, organization codes, and purposes. The State Controller shall also, after consultation with the Office of State Budget and Management, prescribe a form for the periodic reporting of financial accounts, transactions, and other matters that is compatible with systems and reports required by the State Controller under this section. Additional records, accounts, and accounting systems may be maintained by agencies when required for reporting to funding sources provided prior approval is obtained from the State Controller.

(5) Prescribe the manner in which disbursements of the State agencies shall be made, in accordance with G.S. 143-3.

(6) Operate a central payroll system, in accordance with G.S. 143-3.2 and 143-34.1.

(7) Keep a record of the appropriations, allotments, expenditures, and revenues of each State agency, in accordance with G.S. 143-20.

(8) Make appropriate reconciliations with the balances and accounts kept by the State Treasurer.

(9) Advise and assist the Director of the Budget with regard to the development and implementation of the State cash management policy, in accordance with G.S. 147-86.11.

(10) Prepare and submit to the Governor, the State Auditor, the State Treasurer, and the Office of State Budget and Management each month, a report summarizing by State agency and appropriation or other fund source, the results of financial transactions. This report shall be in the form that will most clearly and accurately set out the current fiscal condition of the State. The State Controller shall also furnish each State agency a report of its transactions by appropriation or other fund source in a form that will clearly and accurately present the fiscal activities and condition of the appropriation or fund source.

(11) Prepare and submit to the Governor, the State Auditor, the State Treasurer, and the Office of State Budget and Management, at the end of each quarter, a report on the financial condition and results of operations of the State entity for the period ended. This report shall clearly and accurately present the condition of all State funds and appropriation balances and shall include comments, recommendations, and concerns regarding the fiscal affairs and condition of the State.

(12) Prepare on or before October 31 of each year, a Comprehensive Annual Financial Report of the preceding fiscal year, in accordance with G.S. 143-20.1.

(13) Perform additional functions and duties assigned to the State Controller, within the scope and context of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes."

Sec. 2. The last paragraph of G.S. 143-3 is amended by deleting "Director of the Budget" each time it appears and substituting "State Controller".

Sec. 3. G.S. 143-3.1 is rewritten to read:

"§ 143-3.1. *Transfers of functions.*—The functions of preaudit of State agency expenditures, issuance of warrants on the State Treasurer for State agency expenditures, and maintenance of records pertaining to these functions shall be transferred from the Director of the Budget to the Office of the State Controller. All statutory authority, personnel, unexpended balances of appropriations or other funds, books, papers, reports, files and other records of the Office of State Budget and Management pertaining to and used in the performance of these functions shall be transferred to the Office of the State Controller; office machinery and equipment used primarily in the performance of these functions shall also be transferred to the Office of the State Controller. The Governor is authorized to do all things necessary to effect an orderly and efficient transfer.

The functions of accounting systems development, maintenance, and coordination shall be transferred from the Office of the State Auditor to the Office of the State Controller. All statutory authority, personnel, unexpended balances of appropriations or other funds, books, papers, reports, files, software, documentation, and other records of the Auditor's Office pertaining to and used in the performance of these functions shall be transferred to the Office of the State Controller; office machinery, equipment, terminals and the like used primarily in the performance of these functions shall also be transferred to the Office of the State Controller. The State Auditor, with the advice and consent of the Governor, is authorized to do all things necessary to effect an orderly and efficient transfer."

Sec. 4. G.S. 143-3.2 is rewritten to read:

"The State Controller shall have the exclusive responsibility for the issuance of all warrants for the payment of money upon the State Treasurer. All warrants upon the State Treasurer shall be signed by the State Controller, who before issuing them shall determine the legality of payment and the correctness of the accounts.

When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to make expenditures through a disbursing account with the State Treasurer. The State Controller shall authorize the Judicial Department and the General Assembly to make expenditures through such disbursing accounts. All deposits in these disbursing accounts shall be by the State Controller's warrant. A copy of each voucher making withdrawals from these disbursing accounts and any supporting data required by the State

Controller shall be forwarded to the Office of the State Controller monthly or as otherwise required by the State Controller.

A central payroll unit operating under the Office of the State Controller may make deposits and withdrawals directly to and from a disbursing account. The disbursing account shall constitute a revolving fund for servicing payrolls passed through the central payroll unit.

The State Controller may use a facsimile signature machine in affixing his signature to warrants."

Sec. 5. G.S. 143-3.3 is amended by deleting "Director of the Budget" each time it appears and substituting "State Controller".

Sec. 6. The first sentence of G.S. 143-7 is amended by deleting "Director" and substituting "State Controller"; and deleting "him" and substituting "the Director".

Sec. 7. The second paragraph of G.S. 143-7 is repealed.

Sec. 8. G.S. 143-8 is amended by deleting "State Disbursing Officer" each time it appears and substituting "State Controller".

Sec. 9. G.S. 143-8 is further amended by deleting "adopted by the Director" each time it appears and substituting "adopted by the State Controller".

Sec. 10. The last sentence of G.S. 143-9 is amended by deleting "The State Auditor" and substituting "The State Auditor and the State Controller".

Sec. 11. The fourth sentence of G.S. 143-11 is amended by deleting "Director" and substituting "State Controller".

Sec. 12. The second paragraph of G.S. 143-11 is amended by redesignating subdivisions (2), (3), and (4) as (a), (b), and (c).

Sec. 13. The second paragraph of G.S. 143-11 is further amended by inserting after subdivision (1) the following:

"(2) State Controller reports including:".

Sec. 14. The second sentence of G.S. 143-17 is amended by deleting "State Auditor who in the course of his audits" and substituting "State Controller who in the course of his operations".

Sec. 15. The first sentence of G.S. 143-19 is amended by deleting "State Disbursing Officer" and substituting "State Controller".

Sec. 16. G.S. 143-20 is amended by deleting "Director" each time it appears and substituting "State Controller".

Sec. 17. The first three sentences of G.S. 143-20.1 are amended by deleting "State Auditor" each time it appears and substituting "State Controller".

Sec. 18. G.S. 143-20.1 is amended by rewriting the fourth sentence to read: "These statements, along with the opinion of the State Auditor, shall be published as the official financial statements of the State and shall be distributed to the Governor, Office of State Budget and Management, members of the General Assembly, heads of departments, agencies and institutions of the State, and other interested parties."

Sec. 19. The fifth sentence of G.S. 143-20.1 is amended by deleting "State Auditor" and substituting "State Controller".

Sec. 20. The first sentence of G.S. 143-27.2 is amended by deleting "The Director of the Budget, upon written request" and substituting "The State Controller, upon written request".

Sec. 21. The last sentence of G.S. 143-31 is amended by deleting "State Disbursing Officer" each time it appears and substituting "State Controller".

Sec. 22. The first sentence of G.S. 143-34.1 is amended by deleting "State Disbursing Officer" and substituting "State Controller".

Sec. 23. The fifth sentence of G.S. 143-34.1 is amended by deleting "Director of the Budget" and substituting "State Controller".

Sec. 24. The third, fourth, fifth, and sixth sentences of G.S. 147-64.6(c)(10) are repealed and replaced with the following:

"In instances where the Auditor determines that existing systems are outmoded, inefficient, or otherwise inadequate, he shall recommend changes to the State Controller. The State Controller shall prescribe and supervise the installation of such changes, as provided in G.S. 143B-426.39(2)."

Sec. 25. G.S. 147-64.6(11) is rewritten to read:

"(11) The Auditor shall, through appropriate tests, satisfy himself concerning the propriety of the data presented in the Comprehensive Annual Financial Report and shall express the appropriate auditor's opinion in accordance with generally accepted auditing standards."

Sec. 26. G.S. 147-86.11 is amended by inserting after the language "State Treasurer" the language ", State Controller,".

Sec. 27. This act shall become effective August 1, 1986.

In the General Assembly read three times and ratified, this the 15th day of July, 1986.

H.B. 1190

CHAPTER 1025

AN ACT TO ESTABLISH POLICIES TO PRESERVE FARMLAND.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the North Carolina General Statutes is amended by adding a new Article 61 to read as follows:

"Article 61.

"Preservation of Farmland.

"§ 106-735. *Short title and purpose.*—(a) This Article shall be known as 'The Farmland Preservation Enabling Act'.

(b) The purpose of this Article is to authorize counties to undertake a series of programs to encourage the preservation of farmland as defined herein.

"§ 106-736. *Farmland preservation programs authorized.*—A county may by ordinance establish a farmland preservation program under this Article. The ordinance may authorize qualifying farms, as defined in G.S. 106-737, to take advantage of one or more of the benefits authorized by the remaining sections of this Article.

"§ 106-737. *Qualifying farmland.*—In order for farmland to qualify under this Article, it must be real property that:

(1) Is participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or is otherwise determined

by the county to meet all the qualifications of this program set forth in G.S. 105-277.3;

(2) Is certified by the Soil Conservation Service of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that (i) are best suited for providing food, seed, fiber, forage, timber, and oil seed crops, (ii) have good soil qualities, (iii) are favorable for all major crops common to the county where the land is located, (iv) have a favorable growing season, and (v) receive the available moisture needed to produce high yields an average of eight out of ten years; or on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in G.S. 105-277.2(1), (2), and (3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies;

(3) Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodible land; and

(4) Is the subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits nonfarm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.

“§ 106-737.1. *Revocation of conservation agreement.*—By written notice to the county, the landowner may revoke this conservation agreement. Such revocation shall result in loss of qualifying farm status.

“§ 106-738. *Voluntary agricultural districts.*—(a) An ordinance adopted under this Article shall provide:

- (1) For the establishment of voluntary agricultural districts consisting initially of at least the number of contiguous acres of qualifying farmland or the number of qualifying farms deemed appropriate by the board of county commissioners;
- (2) For the formation of such districts upon the execution by the owners of the requisite acreage of an agreement to sustain agriculture in the district;
- (3) That the form of this agreement must be reviewed and approved by an agricultural advisory board established under G.S. 106-739 or some other county board or official;
- (4) That each such district have a representative on the agricultural advisory board established under G.S. 106-739.

(b) The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts on properly managed farms. The county may take such action as it deems appropriate to encourage the formation of such districts and to further their purposes and objectives.

“§ 106-739. *Agricultural advisory board.*—An ordinance adopted under this Article shall provide for the establishment of an agricultural advisory board, organized and appointed as the county shall deem appropriate. The county may confer upon this advisory board authority to:

(1) Review and make recommendations concerning the establishment and modification of agricultural districts;

(2) Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this Article;

(3) Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;

(4) Advise the board of county commissioners on projects, programs, or issues affecting the agricultural economy or way of life within the county;

(5) Perform other related tasks or duties assigned by the board of county commissioners.

“§ 106-740. *Public hearings on condemnation of farmland.*—An ordinance adopted under this Article may provide that no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district until such agency has requested the local agricultural advisory board established under G.S. 106-739 to hold a public hearing on the proposed condemnation.

(1) Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision-making body of the agency proposing acquisition.

(2) The board designated to hold the hearing shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.

(3) The agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations.

“§ 106-741. *Record notice of proximity to farmlands.*—(a) Any county that has a computerized land records system may require that such records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.

(b) In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by any ordinance adopted under subsection (a).

(c) In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this Article.

“§ 106-742. *Waiver of water and sewer assessments.*—(a) A county may provide by ordinance that its water and sewer assessments be held in abeyance, with or without interest, for farms, whether inside or outside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

(b) The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(c) Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

(d) If an ordinance is adopted under this section, then the assessment procedures followed under Article 9 of Chapter 153A shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.

(e) Nothing in this section is intended to diminish the authority of counties to hold assessments in abeyance under G.S. 153A-201.

“§ 106-743. *County ordinances.*—A county adopting an ordinance under this Article may consult with the North Carolina Commissioner of Agriculture or his staff before adoption, and shall record the ordinance with the Commissioner's office after adoption. Thereafter, the county shall submit to the Commissioner at least once a year, a written report including the status, progress and activities of the county's farmland preservation program under this Article.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

H.B. 2107

CHAPTER 1026

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Everett Carnes of McDowell County is appointed to the Board of State Contract Appeals for a term to expire on June 30, 1988.

Sec. 2. Mary M. Holroyd of Wake County and Betsy H. Johnson of Wayne County are appointed to the Child Day Care Commission for terms to expire on June 30, 1988. These are the two appointments who are not employed in or providing day care and who have no financial interest in day care.

Sec. 3. Julius Rowan Cauble of Buncombe County is appointed to the Private Protective Services Board for a term to expire on June 30, 1989.

Sec. 4. Mrs. Kathryn Kirkpatrick of Haywood County is appointed to the North Carolina Milk Commission for a term to expire on June 30, 1988. This is the categorical appointment for a public member.

Sec. 5. James D. Tomberlin of Buncombe County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 1988. Ben H. Battle of Jackson County is appointed to the Board of Trustees of the Teachers'

and State Employees' Comprehensive Major Medical Plan for a term to expire on June 30, 1987, to fill the vacancy caused by the resignation of John T. King of Cabarrus County.

Sec. 6. Dennis T. Worley of Columbus County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term to expire on June 30, 1987, to fill the vacancy caused by the death of Sankey Wright Robinson of Columbus County.

Sec. 7. Mrs. Lynda B. Cowan of Jackson County, Dr. James Colson of Wake County and David Wyatt of Madison County are appointed to the North Carolina Board for Need-Based Student Loans for terms to expire on July 1, 1990.

Sec. 8. W. Carson Ellis of Vance County is appointed to the Alarm Systems Licensing Board for a term to begin on October 1, 1986, and to expire on September 30, 1989.

Sec. 9. Dr. Cynthia M. Freund of Orange County is appointed to the North Carolina Medical Database Commission for a term to expire on June 30, 1989. This is the nurse categorical appointment.

Sec. 10. Michael E. Ferguson of Haywood County and Jimmy L. Moore of Jackson County are appointed to the North Carolina Housing Commission for terms to expire on June 30, 1989.

Sec. 11. Dr. H. F. Robinson of Jackson County is appointed to the Board of Directors of the Western North Carolina Arboretum for a term to expire on June 30, 1990. David Felmet, Sr., of Haywood County is appointed to the Board of Directors of the Western North Carolina Arboretum for a term to expire on June 30, 1988.

Sec. 12. Mack Reid Hudson of Harnett County, Rhone Sasser of Columbus County and J. P. Harris, Jr., of Granville County are appointed to the North Carolina Agricultural Finance Authority for terms to expire on June 30, 1989.

Sec. 13. Oscar Harris of Harnett County, Melvin G. Cording of Duplin County are appointed to the Southeastern North Carolina Farmers Market Commission for terms to expire on June 30, 1990. Dr. Edmund A. Estes of Wake County and Samuel L. Harrell of Pender County are appointed to the Southeastern North Carolina Farmers Market Commission for terms to expire on June 30, 1988.

Sec. 14. Don Baker of Pasquotank County and Rev. James M. Johnson of Halifax County are appointed to the Northeastern North Carolina Farmers Market Commission for terms to expire on June 30, 1990. Dr. Frank Bordeaux of Wake County and Hobart Trusdale of Washington County are appointed to the Northeastern North Carolina Farmers Market Commission for terms to expire on June 30, 1988. Dr. Frank Bordeaux will serve as Chairman as provided in subsection (d) of G.S. 106-720 of Sec. 158 of House Bill 2055.

Sec. 15. Ms. Catharine Biggs Arrowood of Wake County, George Hux of Halifax County, John S. Stevens of Buncombe County and Joe A. Connolly of Buncombe County are appointed to the Administrative Rules Review Commission for terms to expire on June 30, 1988.

Sec. 16. Mrs. Marydell R. Bright of Alamance County, Dr. William Joe Cowan of Jackson County, and Dr. Ben D. Quinn of Craven County

are appointed to the North Carolina Teaching Fellows Commission for terms to expire on July 1, 1990.

Sec. 17. Unless otherwise specified, all appointments made by this act are for terms to begin upon ratification of this act or July 1, 1986, whichever is later.

Sec. 18. The fourth sentence of G.S. 74D-4(c) is amended by deleting "Speaker of the House of Representatives", and substituting "President of the Senate", and by deleting "Lieutenant Governor", and substituting "Speaker of the House of Representatives".

Sec. 19. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

S.B. 873

CHAPTER 1027

AN ACT TO REVISE THE RATING AND CLASSIFICATION PLANS AND THE RATEMAKING PROCEDURE FOR NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE; TO MAKE REVISIONS AND IMPROVEMENTS IN THE REGULATION OF COMMERCIAL PROPERTY AND LIABILITY INSURANCE RATES; TO REQUIRE REPORTS FROM INSURERS AND TO AUTHORIZE THE INSURANCE COMMISSIONER TO MODIFY RATES IF STATUTORY CHANGES IN CIVIL LAW AFFECT INSURERS' EXPERIENCE; TO MAKE CHANGES IN CERTAIN INSURANCE MARKET PRACTICES FOR THE BENEFIT OF CONSUMERS; AND TO MAKE TECHNICAL CHANGES IN THE INSURANCE LAWS, AND TO MAKE CHANGES IN RULES 8(a)(2) AND 11(a) OF THE RULES OF CIVIL PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. Article 12B of General Statutes Chapter 58 is amended by adding a new section to read:

"§ 58-124.31. *Classifications and Safe Driver Incentive Plan for nonfleet private passenger motor vehicle insurance.*—(a) The Bureau shall file, subject to review, modification, and promulgation by the Commissioner, such rate classifications, schedules, or rules that the Commissioner deems to be desirable and equitable to classify drivers of nonfleet private passenger motor vehicles for insurance purposes. Subsequently, the Commissioner may require the Bureau to file modifications of the classifications, schedules, or rules. If the Bureau does not file the modifications within a reasonable time, the Commissioner may promulgate the modifications. In promulgating or modifying these classifications, schedules, or rules, the Commissioner may give consideration to the following:

- (1) Uses of vehicles, including without limitation to farm use, pleasure use, driving to and from work, and business use;
- (2) Principal and occasional operation of vehicles;
- (3) Years of driving experience of insureds as licensed drivers;
- (4) The characteristics of vehicles; or
- (5) Any other factors, not in conflict with any law, deemed by the Commissioner to be appropriate.

(b) The Bureau shall file, subject to review, modification, and promulgation by the Commissioner, a Safe Driver Incentive Plan ('Plan') that adequately and factually distinguishes among various classes of drivers that have safe driving records and various classes of drivers that have a record of chargeable accidents; a record of convictions of major moving traffic violations; a record of convictions of minor moving traffic violations; or a combination thereof; and that provides for premium differentials among those classes of drivers. Subsequently, the Commissioner may require the Bureau to file modifications of the Plan. If the Bureau does not file the modifications within a reasonable time, the Commissioner may promulgate the modifications. The Commissioner is authorized to structure the Plan to provide for surcharges above and discounts below the rate otherwise charged.

(c) The classifications and Plan filed by the Bureau shall be subject to the filing, hearing, modification, approval, disapproval, review, and appeal procedures provided by law. The classifications or Plan filed by the Bureau and promulgated by the Commissioner shall of itself not be designed to bring about any increase or decrease in the overall rate level.

(d) Whenever any policy loses any safe driver discount provided by the Plan or is surcharged due to an accumulation of points under the Plan, the insurer shall, pursuant to rules adopted by the Commissioner, prior to or simultaneously with the billing for additional premium, inform the named insured of the surcharge or loss of discount by mailing to such insured a notice that states the basis for the surcharge or loss of discount, and that advises that upon receipt of a written request from the named insured it will promptly mail to the named insured a statement of the amount of increased premium attributable to the surcharge or loss of discount. The statement of the basis of the surcharge or loss of discount is privileged, and does not constitute grounds for any cause of action for defamation or invasion of privacy against the insurer or its representatives, or against any person who furnishes to the insurer the information upon which the insurer's reasons are based, unless the statement or furnishing of information is made with malice or in bad faith.

(e) Records of convictions for moving traffic violations to be considered under the safe driver plans under G.S. 58-30.4 and this section shall be obtained at least annually from the Division of Motor Vehicles and applied by the Bureau's member companies in accordance with rules to be established by the Bureau.

(f) The Bureau is authorized to establish reasonable rules providing for the exchange of information among its member companies as to chargeable accidents and similar information involving persons to be insured under policies. Neither the Bureau, any employee of the Bureau, nor any company or individual serving on any committee of the Bureau has any liability for defamation or invasion of privacy to any person arising out of the adoption, implementation, or enforcement of any such rule. No insurer or individual requesting, furnishing, or otherwise using any information that such insurer or person reasonably believes to be for purposes authorized by this section has any liability for defamation or invasion of privacy to any person on account of any such requesting,

furnishing, or use. The immunity provided by this subsection does not apply to any acts made with malice or in bad faith.

(g) If an applicant for the issuance or renewal of a nonfleet private passenger motor vehicle insurance policy knowingly makes a material misrepresentation of the years of driving experience or the driving record of any named insured or of any other operator who resides in the same household and who customarily operates a motor vehicle to be insured under the policy, the insurer may:

- (1) Cancel or refuse to renew the policy;
- (2) Surcharge the policy in accordance with rules to be adopted by the Bureau and approved by the Commissioner; or
- (3) Recover from the applicant the appropriate amount of premium or surcharge that would have been collected by the insurer had the applicant furnished the correct information."

Sec. 2. G.S. 58-124.20(d) is rewritten to read:

"(d) With respect to the filing of rates for nonfleet private passenger motor vehicle insurance, the Bureau shall, on or before July 1 of each year, or later with the approval of the Commissioner, file with the Commissioner the experience, data, statistics, and information referred to in subsection (c) of this section and any proposed adjustments in the rates for all member companies of the Bureau. The filing shall include, where deemed by the Commissioner to be necessary for proper review, the data specified in subsections (c), (e), (g) and (h) of this section. Any filing that does not contain the data required by this subsection may be returned to the Bureau and not be deemed a proper filing. Provided, however, that if the Commissioner concludes that a filing does not constitute a proper filing he shall promptly notify the Bureau in writing to that effect, which notification shall state in reasonable detail the basis of the Commissioner's conclusion. The Bureau shall then have a reasonable time to remedy the defects so specified. An otherwise defective filing thus remedied shall be deemed to be a proper and timely filing, except that all periods of time specified in this Article will run from the date the Commissioner receives additional or amended documents necessary to remedy all material defects in the original filing."

Sec. 3. G.S. 58-124.20 is amended by adding three new subsections to read:

"(g) The following information must be included in policy form, rule, and rate filings under this Article and under Article 25A of this Chapter:

- (1) A detailed list of the rates, rules, and policy forms filed, accompanied by a list of those superseded; and
- (2) A detailed description, properly referenced, of all changes in policy forms, rules, and rates, including the effect of each change.

(h) Except for filings made under G.S. 58-124.23, all policy form, rule, and rate filings under this Article and Article 25A of this Chapter that are based on statistical data must be accompanied by the following properly identified information:

- (1) North Carolina earned premiums at the actual and current rate level; losses and loss adjustment expenses, each on paid and incurred bases without trending or other modification for the

experience period, including the loss ratio anticipated at the time the rates were promulgated for the experience period;

- (2) Credibility factor development and application;
- (3) Loss development factor derivation and application on both paid and incurred bases and in both numbers and dollars of claims;
- (4) Trending factor development and application;
- (5) Changes in premium base resulting from rating exposure trends;
- (6) Limiting factor development and application;
- (7) Overhead expense development and application of commission and brokerage, other acquisition expenses, general expenses, taxes, licenses, and fees;
- (8) Percent rate change;
- (9) Final proposed rates;
- (10) Investment earnings, consisting of investment income and realized plus unrealized capital gains, from loss, loss expense, and unearned premium reserves;
- (11) Identification of applicable statistical plans and programs and a certification of compliance with them;
- (12) Investment earnings on capital and surplus;
- (13) Level of capital and surplus needed to support premium writings without endangering the solvency of member companies; and
- (14) Such other information that may be required by any rule adopted by the Commissioner.

Provided, however, that no filing may be returned or disapproved on the grounds that such information has not been furnished if insurers have not been required to collect such information pursuant to statistical plans or programs or to report such information to the Bureau or to statistical agents, except where the Commissioner has given reasonable prior notice to the insurers to begin collecting and reporting such information, or except when the information is readily available to the insurers.

(i) The Bureau shall file with and at the time of any rate filing all testimony, exhibits, and other information on which the Bureau will rely at the hearing on the rate filing. The Department shall file all testimony, exhibits, and other information on which the Department will rely at the hearing on the rate filing 20 days in advance of the convening date of the hearing. Upon the issuance of a notice of hearing the Commissioner shall hold a meeting of the parties to provide for the scheduling of any additional testimony, including written testimony, exhibits or other information, in response to the notice of hearing and any potential rebuttal testimony, exhibits, or other information. This subsection also applies to rate filings made by the North Carolina Motor Vehicle Reinsurance Facility under Article 25A of this Chapter."

Sec. 3.1. G.S. 58-124.22(b) is amended by rewriting the 8th and 9th lines to read:

"collected during such interim period. Upon a final determination by the Court, the Commissioner shall order the escrowed funds to be distributed appropriately, except that".

Sec. 4. G.S. 58-124.22(b) is amended by rewriting the last sentence to read:

"If refunds made to policyholders are ordered under this subsection, the amounts refunded shall bear interest at the rate determined under this subsection. That rate shall be the average of the prime rates of the four largest banking institutions domiciled in this State, plus three percent (3%), as of the effective date of the filing, to be computed by the Commissioner."

Sec. 5. Article 12B of General Statutes Chapter 58 is amended by adding a new section to read:

"§ 58-124.32. *Rate filings and hearings for motor vehicle insurance.*—(a) With respect to nonfleet private passenger motor vehicle insurance, except as provided in G.S. 58-124.22, a filing made by the Bureau under G.S. 58-124.20(d) is not effective until approved by the Commissioner or unless 60 days have elapsed since the making of a proper filing under that subsection and the Commissioner has not called for a hearing on the filing. If the Commissioner calls for a hearing, he must give written notice to the Bureau, specify in the notice in what respect the filing fails to comply with this Article, and fix a date for the hearing that is not less than 30 days from the date the notice is mailed.

(b) At least 15 days before the date set for the convening of the hearing the respective staffs and consultants of the Bureau and Commissioner shall meet at a prehearing conference to review the filing and discuss any points of disagreement that are likely to be in issue at the hearing. At the prehearing conference, the parties shall list the names of potential witnesses and, where possible, stipulate to their qualifications as expert witnesses, stipulate to the sequence of appearances of witnesses, and stipulate to the relevance of proposed exhibits to be offered by the parties. Minutes of the prehearing conference shall be made and reduced to writing and become part of the hearing record. Any agreements reached as to preliminary matters shall be set forth in writing and consented to by the Bureau and the Commissioner. The purpose of this subsection is to avoid unnecessary delay in the rate hearings.

(c) Once begun, hearings must proceed without undue delay. At the hearing the burden of proving that the proposed rates are not excessive, inadequate, or unfairly discriminatory is on the Bureau. The Commissioner may disregard at the hearing any exhibits, judgments, or conclusions offered as evidence by the Bureau that were developed by or available to or could reasonably have been obtained or developed by the Bureau at or before the time the Bureau made its proper filing and which exhibits, judgments, or conclusions were not included and supported in the filing; unless the evidence is offered in response to inquiries made at the hearing by the Department, the notice of hearing, or as rebuttal to the Department's evidence. If relevant data becomes available after the filing has been properly made, the Commissioner may consider such data as evidence in the hearing. The order of presenting evidence shall be (1) by the Bureau; (2) by the Department; (3) any rebuttal evidence by the Bureau regarding the Department's evidence; and (4) any rebuttal evidence by the Department regarding the Bureau's rebuttal evidence. Neither the Bureau nor the Department shall present repetitious testimony or evidence relating to the same issues. The Bureau shall reimburse the Department for all reasonable costs incurred by the Department in retaining outside

actuarial, economic, and legal consultants or counsel, and court reporting services, for the review of rate filings, in conducting hearings, and up to the time the Commissioner issues an order approving or disapproving the filing.

(d) If the Commissioner finds that a filing complies with the provisions of this Article, either after the hearing or at any other time after the filing has been properly made, he may issue an order approving the filing. If the Commissioner after the hearing finds that the filing does not comply with the provisions of this Article, he may issue an order disapproving the filing, determining in what respect the filing is improper, and specifying the appropriate rate level or levels that may be used by the members of the Bureau instead of the rate level or levels proposed by the Bureau filing, unless there has not been data admitted into evidence in the hearing that is sufficiently credible for arriving at the appropriate rate level or levels. Any order issued after a hearing shall be issued within 45 days after the completion of the hearing. If no order is issued within 45 days after the completion of the hearing, the filing shall be deemed to be approved.

(e) No person shall wilfully withhold information required by this Article from or knowingly furnish false or misleading information to the Commissioner, any statistical agency designated by the Commissioner, any rating or advisory organization, the Bureau, the North Carolina Motor Vehicle Reinsurance Facility, or any insurer, which information affects the rates, rating plans, classifications, or policy forms subject to this Article or Article 25A of this Chapter."

Sec. 5.1. G.S. 58-124.17 is amended by adding two new subsections to read:

"(6) The Bureau shall maintain and furnish to the Commissioner on an annual basis the statistics on earnings derived by member companies from the investment of unearned premium, loss, and loss expense reserves on nonfleet private passenger motor vehicle insurance policies written in this State. Whenever the Bureau proposes rates under this Article, it shall prepare a separate exhibit for the experience years in question showing the combined earnings realized from the investment of such reserves on policies written in this State. The amount of earnings may in an equitable manner be included in the ratemaking formula to arrive at a fair and equitable rate. The Commissioner may require further information as to such earnings and may require calculations of the Bureau bearing on such earnings.

(7) Member companies shall furnish, upon request of any person carrying nonfleet private passenger motor vehicle insurance in the State upon whose risk a rate has been promulgated, information as to rating, including the method of calculation."

Sec. 6. G.S. 58-124.18(b) is amended by adding the following:

"The governing committee of the Bureau shall also have as nonvoting members two persons who are not employed by or affiliated with any insurance company or the Department of Insurance and who are appointed by the Governor to serve at his pleasure."

Sec. 7. G.S. 58-248.33(d) is amended by adding the following:

"The Board of Governors of the Facility shall also have as nonvoting members two persons who are not employed by or affiliated with any insurance company or the Department of Insurance and who are appointed by the Governor to serve at his pleasure."

Sec. 8. G.S. 58-25.1 is amended by inserting between the words, "insurer" and "or its officers" the following: ", rating organization, advisory organization, joint underwriting or joint reinsurance organization, or the North Carolina Rate Bureau or Motor Vehicle Reinsurance Facility,".

Sec. 9. Notwithstanding the provisions of Sections 2 through 5 of this act, the Bureau may make its 1986 rate filing for nonfleet private passenger motor vehicle insurance after July 1, 1986.

Sec. 9.1. G.S. 58-131.37(a) is amended by deleting "Rates" and substituting therefor, "In order to serve the public interest, rates".

Sec. 10. G.S. 58-131.37(b) and (c) are repealed.

Sec. 11. G.S. 58-131.37(d) is rewritten to read:

"(d) No rate is inadequate unless the rate is unreasonably low for the insurance provided and the use or continued use of the rate by the insurer has had or will have the effect of:

- (1) endangering the solvency of the insurer; or
- (2) destroying competition; or
- (3) creating a monopoly; or
- (4) violating actuarial principles, practices, or soundness."

Sec. 12. G.S. 58-131.42 is amended by rewriting subsection (a) to read:

"(a) If, after a hearing, the Commissioner disapproves a rate, he must issue an order specifying in what respects the rate fails to meet the requirements of G.S. 58-131.37. If the Commissioner finds a rate to be excessive, he shall order the excess premium, plus interest at a rate determined in the same manner as in G.S. 58-124.22(b) as of the dates such rates were effective for policyholders, to be refunded to those policyholders who have paid the excess premium. If the Commissioner finds a rate to be unfairly discriminatory, he shall order an appropriate adjustment for policyholders who have paid the unfairly discriminatory premium. The order must be issued within 30 business days after the close of the hearing."

Sec. 12.1. G.S. 58-131.42 is amended by adding a new subsection (c) to read:

"(c) No person shall wilfully withhold information required by this Article from or knowingly furnish false or misleading information to the Commissioner, any statistical agency designated by the Commissioner, any rating or advisory organization, or any insurer, which information will affect the rates, rating plans, classifications, or policy forms subject to this Article."

Sec. 13. Article 13C of General Statutes Chapter 58 is amended by adding a new section to read:

"§ 58-131.61. *Financial disclosure; rate modifications; reporting requirements.*—(a) The Commissioner may require each insurer subject to this Article to report, on a form prescribed by the Commissioner, its loss and expense experience, investment income, administrative expenses, and

other data that he may require, for kinds of insurance or classes of risks that he designates. These reports are in addition to financial or other statements required by this Chapter.

(b) The Commissioner may designate one or more rating organizations or advisory organizations to gather and compile the experience and data referred to in subsection (a) of this section for their member companies.

(c) Whereas the provisions enacted by the General Assembly in 1986 regarding modifications in North Carolina civil law may have a prospective effect upon the loss experience of insurers subject to this Article, the Commissioner is authorized to review each company's rates by type of insurance that are in effect on and after January 1, 1987, and, when and where appropriate, require modification of such rates.

(d) Each insurer subject to this Article shall record the experience and data referred to in subsection (a) of this section arising from causes of action arising against its insureds on and after January 1, 1987. Such experience and data shall be reported to the Commissioner by March 31, 1988, which report shall be on a form prescribed by the Commissioner reflecting such experience and data for the one year period beginning on January 1, 1987. Subsequently, such experience and data shall be reported to the Commissioner by March 31 of each year for each one year period ending on December 31 of the previous year.

(e) On or before July 1, 1988, and annually thereafter, the Commissioner shall report to the General Assembly the effects, if any, of changes in North Carolina civil law statutes on the experience of insurers subject to this section."

Sec. 14. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 38.

"Insurance Regulatory Reform Act.

"§ 58-470. *Short title.*—This Article is known and may be cited as the Insurance Regulatory Reform Act.

"§ 58-471. *Legislative findings and intent.*—(a) Due to conditions in national and international property and liability insurance markets, insureds in the United States have experienced unprecedented in-term cancellations of existing policies for entire books of business, have been afforded little or no notice that existing policies would not be renewed at their expiration dates, or would be renewed only at substantially higher rates or on less favorable terms. The General Assembly finds that such conditions pose an imminent peril to the public welfare for the following reasons:

- (1) In-term cancellations of insurance coverages erode insureds' confidence and breach insureds' trust; unfairly and prematurely terminate the promised coverage; force persons to go without needed insurance protection or force the procurement of substitute insurance at greater cost; and create marketplace confusion resulting in product unavailability.
- (2) Failures to provide timely notices of nonrenewals or of renewals with altered terms deprive persons of adequate opportunities to

secure affordable replacement coverages or require persons to go without needed insurance protection.

(b) The General Assembly finds that there is no uniform requirement for the notice of cancellation, renewal, or nonrenewal for commercial property and liability insurance and that it should adopt reasonable requirements for such notices and should regulate in-term cancellations of entire books of business by companies.

“§ 58-472. *Scope.*—(a) Except as otherwise provided, this Article applies to all kinds of insurance authorized by G.S. 58-72(4) through (14) and G.S. 58-72(18) through (22), and to all insurance companies licensed by the Commissioner to write those kinds of insurance. This Article does not apply to insurance written under Articles 12B, 18A, 18B, 25A or 36 of this Chapter; to marine and personal inland marine insurance; to aviation insurance; nor to policies issued in this State covering risks with multistate locations, except with respect to coverages applicable to locations within this State.

(b) This Article is not exclusive, and the Commissioner may also consider other provisions of this Chapter to be applicable to the circumstances or situations addressed in this Article. Policies may provide terms more favorable to insureds than are required by this Article. The rights provided by this Article are in addition to and do not prejudice any other rights the insured may have at common law, under statutes, or under administrative rules.

“§ 58-473. *Certain policy cancellations prohibited.*—(a) No insurance policy or renewal thereof may be cancelled by the insurer prior to the expiration of the term or anniversary date stated in the policy and without the prior written consent of the insured, except for any one of the following reasons:

- (1) Nonpayment of premium in accordance with the policy terms;
- (2) An act or omission by the insured or his representative that constitutes material misrepresentation or nondisclosure of a material fact in obtaining the policy, continuing the policy, or presenting a claim under the policy;
- (3) Increased hazard or material change in the risk assumed that could not have been reasonably contemplated by the parties at the time of assumption of the risk;
- (4) Substantial breach of contractual duties, conditions, or warranties that materially affects the insurability of the risk;
- (5) A fraudulent act against the company by the insured or his representative that materially affects the insurability of the risk;
- (6) Willful failure by the insured or his representative to institute reasonable loss control measures that materially affect the insurability of the risk after written notice by the insurer;
- (7) Loss of facultative reinsurance, or loss of or substantial changes in applicable reinsurance as provided in G.S. 58-476;
- (8) Conviction of the insured of a crime arising out of acts that materially affect the insurability of the risk; or
- (9) A determination by the Commissioner that the continuation of the policy would place the insurer in violation of the laws of this State;

- (10) The named insured fails to meet the requirements contained in the corporate charter, articles of incorporation, or bylaws of the insurer, when the insurer is a company organized for the sole purpose of providing members of an organization with insurance coverage in this State.

(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been delivered or mailed to the insured, not less than 15 days before the proposed effective date of cancellation. The notice must be given or mailed to the insured, and any designated mortgagee or loss payee at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice must state the precise reason for cancellation. Proof of mailing is sufficient proof of notice. Failure to send this notice to any designated mortgagee or loss payee invalidates the cancellation only as to the mortgagee's or loss payee's interest.

(c) This section does not apply to any insurance policy that has been in effect for less than 60 days and is not a renewal of a policy. That policy may be cancelled for any reason by furnishing to the insured at least 15 days prior written notice of and reasons for cancellation.

(d) Cancellation for nonpayment of premium is not effective if the amount due is paid before the effective date set forth in the notice of cancellation.

(e) Copies of the notice required by this section shall also be sent to the agent or broker of record; however, failure to send copies of the notice to such persons shall not invalidate the cancellation.

“§ 58-474. *Notice of nonrenewal, premium increase, or change in coverage required.*—(a) No insurer may refuse to renew an insurance policy except in accordance with the provisions of this section, and any nonrenewal attempted or made that is not in compliance with this section is not effective. This section does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

(b) An insurer may refuse to renew a policy that has been written for a term of one year or less at the policy's expiration date by giving or mailing written notice of nonrenewal to the insured not less than 45 days prior to the expiration date of the policy.

(c) An insurer may refuse to renew a policy that has been written for a term of more than one year or for an indefinite term at the policy anniversary date by giving or mailing written notice of nonrenewal to the insured not less than 45 days prior to the anniversary date of the policy.

(d) The notice required by this section must be given or mailed to the insured and any designated mortgagee or loss payee at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. Proof of mailing is sufficient proof of notice. The notice of nonrenewal must state the precise reason for nonrenewal. Failure to send this notice to any designated mortgagee or loss payee invalidates the nonrenewal only as to the mortgagee's or loss payee's interest.

(e) Copies of the notice required by this section shall also be sent the agent or broker of record; however, failure to send copies of the notice to such persons shall not invalidate the nonrenewal.

“§ 58-475. *Notice of renewal of policies with premium or coverage changes.*—(a) If an insurer intends to renew a policy, the insurer must furnish to the insured the renewal terms and a statement of the amount of premium due for the renewal policy period.

(b) If the policy being renewed was written for a term of one year or less, the renewal terms and statement of premium due must be given or mailed not less than 45 days before the expiration date of that policy. If the policy being renewed was written for a term of more than one year or for an indefinite term, the renewal terms and statement of premium due must be given or mailed not less than 45 days before the anniversary date of that policy. The renewal terms and statement of premium due must be given or mailed to the insured and any designated mortgagee or loss payee at their addresses shown in the policy, or, if not indicated in the policy, at their last known addresses.

(c) If the insurer fails to furnish the renewal terms and statement of premium due in the manner required by this section, the insured may cancel the renewal policy within the 30-day period following receipt of the renewal terms and statement of premium due. For refund purposes, earned premium for any period of coverage shall be calculated pro rata upon the premium applicable to the policy being renewed instead of the renewal policy.

(d) If a policy has been issued for a term longer than one year, and for additional consideration a premium has been guaranteed for the entire term, it is unlawful for the insurer to increase that premium or require policy deductibles or other policy or coverage provisions less favorable to the insured during the term of the policy.

(e) Copies of the notice required by this section shall also be given or mailed to any designated mortgagee or loss payee and may also be given or mailed to the agent or broker of record.

“§ 58-476. *Loss of reinsurance.*—An insurer may cancel or refuse to renew a kind of insurance when the cancellation or nonrenewal is necessary because of a loss of or substantial reduction in applicable reinsurance, by filing a plan with the Commissioner pursuant to the requirements of this section. The insurer's plan must be filed with the Commissioner at least 15 business days prior to the issuance of any notice of cancellation or nonrenewal. The insurer may implement its plan upon the approval of the Commissioner, which shall be granted or denied in writing, with the reasons for his actions, within 15 business days of the Commissioner's receipt of the plan. Any plan submitted for approval shall contain a certification by an elected officer of the company:

- (1) That the loss or substantial change in applicable reinsurance necessitates the cancellation or nonrenewal action;
- (2) That the insurer has made a good faith effort to obtain replacement reinsurance but was unable to do so because of the unavailability or unaffordability of replacement reinsurance;
- (3) Identifying the category of risks, the total number of risks written by the company in that category, and the number of risks intended to be cancelled or not renewed;
- (4) Identifying the total amount of the insurer's net retention for the risks intended to be cancelled or not renewed;

- (5) Identifying the total amount of risk ceded to each reinsurer and the portion of that total that is no longer available;
- (6) Explaining how the loss of or reduction in reinsurance affects the insurer's risks throughout the kind of insurance proposed for cancellation or nonrenewal;
- (7) Explaining why cancellation or nonrenewal is necessary to cure the loss of or reduction in reinsurance; and
- (8) Explaining how the cancellations or nonrenewals, if approved, will be implemented and the steps that will be taken to ensure that the cancellation or nonrenewal decisions will not be applied in an arbitrary, capricious, or unfairly discriminatory manner.

“§ 58-477. *Notice of cessation of business through insurance agency.*—(a) Each insurer must, upon the cessation of any of its business through a North Carolina insurance agency, furnish the Commissioner with the following information on a form to be prescribed by the Commissioner:

- (1) The kinds of policies no longer written through the agency. In describing the kinds of these policies, those appearing on page 14 of the annual statement convention blank will suffice, except that liability coverages should be more specifically described;
- (2) The number of policies, by kind, no longer written through the agency;
- (3) A statement as to whether or not the cessation of business is by nonrenewal of business at policy expiration dates, or is a decision not to accept new business from the agency, or a combination of these;
- (4) If the cessation is by the insurer, the specific reason or reasons for the cessation; and
- (5) The names and addresses of the insurer and the agency and the effective date of the cessation of the business.

(b) This section applies to the cessation of the writing of any kind of insurance subject to this Article through an agency located in North Carolina. Reports are required even though other kinds of insurance may still be written through the agency.

“§ 58-478. *No liability for statements or communications made in good faith; prior notice to agents or brokers.*—(a) There is no liability on the part of and no cause of action for defamation or invasion of privacy arises against any insurer or its authorized representatives, agents, or employees, or any licensed insurance agent or broker, for any communication or statement made, unless shown to have been made in bad faith with malice, in any of the following:

- (1) A written notice of cancellation under G.S. 58-473, of nonrenewal under G.S. 58-474, or of cessation of business through an agency under G.S. 58-477, specifying the reasons therefor;
- (2) Communications providing information pertaining to such cancellation, nonrenewal, or cessation of business through an agency;
- (3) Evidence submitted at any court proceeding, administrative hearing, or informal inquiry in which such cancellation,

nonrenewal, or cessation of business through an agency is an issue.

(b) With respect to the notices that must be given or mailed to agents or brokers under G.S. 58-473 and G.S. 58-474, the insurer may give or mail that notice at the same time or prior to giving or mailing the notice to the insured.

“§ 58-479. *Termination of writing kind of insurance.*—(a) Except as provided in G.S. 58-476, no insurer may terminate, by nonrenewals, an entire book of business of any kind of insurance without 60 days prior written notice to the Commissioner; unless the Commissioner determines that continuation of the line of business would impair the solvency of the insurer or unless the Commissioner determines that such termination is effected under a plan that minimizes disruption in the marketplace or that makes provisions for alternative coverage at comparable rates and terms.

(b) Except as provided in G.S. 58-476, in-term cancellation by an insurer of an entire book of business of any kind of insurance is presumed to be unfair, inequitable, and contrary to the public interest, unless the Commissioner determines that continuation of the line of business would impair the solvency of the insurer or unless the Commissioner determines that such termination is effected under a plan that minimizes disruption in the marketplace or that makes provisions for alternative coverage at comparable rates and terms.

“§ 58-480. *Policy form and rate filings; punitive damages; data required to support filings.*—(a) With the exception of inland marine insurance, which by general custom of the business is not written according to manual rates and rating plans, all policy forms must be filed with and either approved by the Commissioner or 90 days have elapsed and he has not disapproved the form before they may be used in this State. With respect to liability insurance policy forms, an insurer may exclude or limit coverage for punitive damages awarded against its insured.

(b) With the exception of inland marine insurance, which by general custom of the business is not written according to manual rates and rating plans, all rates by licensed fire and casualty companies or their designated rating organizations must be filed with the Commissioner at least 60 days before they may be used in this State.

(c) A filing that does not include the statistical and rating information required by subsections (d) and (e) of this section is not a proper filing, and will be returned to the filing insurer or organization.

(d) The following information must be included in each policy form, rule, and rate filing:

- (1) A detailed list of the rates, rules, and policy forms filed, accompanied by a list of those superseded; and
- (2) A detailed description, properly referenced, of all changes in policy forms, rules, and rates, including the effect of each change.

(e) Each policy form, rule, and rate filing that is based on statistical data must be accompanied by the following properly identified information:

- (1) North Carolina earned premiums at the actual and current rate level; losses and loss adjustment expenses, each on paid and incurred bases without trending or other modification for the

- experience period, including the loss ratio anticipated at the time the rates were promulgated for the experience period;
- (2) Credibility factor development and application;
 - (3) Loss development factor derivation and application on both paid and incurred bases and in both numbers and dollars of claims;
 - (4) Trending factor development and application;
 - (5) Changes in premium base resulting from rating exposure trends;
 - (6) Limiting factor development and application;
 - (7) Overhead expense development and application of commission and brokerage, other acquisition expenses, general expenses, taxes, licenses, and fees;
 - (8) Percent rate change;
 - (9) Final proposed rates;
 - (10) Investment earnings, consisting of investment income and realized plus unrealized capital gains, from loss, loss expense, and unearned premium reserves;
 - (11) Identification of applicable statistical plans and programs and a certification of compliance with them;
 - (12) Investment earnings on capital and surplus;
 - (13) Level of capital and surplus needed to support premium writings without endangering the solvency of the company or companies involved; and
 - (14) Such other information that may be required by any rule adopted by the Commissioner.

Provided, however, that no filing may be returned or disapproved on the grounds that such information has not been furnished if the filer has not been required to collect such information pursuant to statistical plans or programs or to report such information to statistical agents, except where the Commissioner has given reasonable prior notice to the filer to begin collecting and reporting such information or except when the information is readily available to the filer.

(f) It is unlawful for an insurer to charge or collect, or attempt to charge or collect, any premium for insurance except in accordance with filings made with the Commissioner under this section and Article 13C of this Chapter.

“§ 58-481. *Penalties; restitution.*—In addition to criminal penalties for acts declared unlawful by this Article, any violation of this Article subjects an insurer to revocation or suspension of its certificate of authority, or monetary penalties or payment of restitution as provided in G.S. 58-9.7.”

Sec. 15. G.S. 58-131.53(b), G.S. 58-131.56, and G.S. 58-131.59 are repealed.

Sec. 16. G.S. 58-131.38(1) is amended by rewriting the proviso to read:

“Provided, however, that regional or countrywide expense or loss experience and other regional or countrywide data may be considered only when credible North Carolina expense or loss experience or other data is not available.”

Sec. 17. G.S. 58-131.39 is amended by adding a new subsection to read:

“(d) This section and G.S. 58-480 shall be construed *in pari materia*.”

Sec. 18. G.S. 58-54.4(11) is amended by rewriting the heading and first phrase to read:

“(11) Unfair Claim Settlement Practices. Committing or performing with such frequency as to indicate a general business practice of any of the following: Provided, however, that no violation of this subsection shall of itself create any cause of action in favor of any person other than the Commissioner”.

Sec. 19. G.S. 58-248.33(b)(1)e. is rewritten to read:

“e. Any other motor vehicle insurance or financial responsibility limits in the amounts required by any federal law or federal agency regulation; by any law of this State; or by any rule duly adopted under Chapter 150B of the General Statutes or by the North Carolina Utilities Commission.”

Sec. 20. G.S. 58-54.4(7) is amended by adding the following subdivisions:

“c. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or

2. The refusal, cancellation, or limitation is required by law.

d. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:

1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or

2. The refusal, cancellation, or limitation is required by law.”

Sec. 21. G.S. 58-173.2 is amended by adding a new subsection to read:

“(3a) ‘Crime insurance’ means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies approved by the Commissioner and issued by the association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609.”

Sec. 22. G.S. 58-173.8(b) is amended by inserting “, and shall offer additional extended coverage and crime insurance,” between “property insurance” and “for a”.

Sec. 23. G.S. 58-173.20, as found in the 1986 Special Supplement, is amended by rewriting the first sentence to read:

“The Association formed pursuant to the provisions of this Article shall have authority on behalf of its members to cause to be issued basic

property insurance policies, including coverage for farm risks; and shall offer additional extended coverage and crime insurance policies; to reinsure in whole or in part, any such policies; and to cede any such reinsurance.”

Sec. 24. G.S. 58-173.17, as found in the 1986 Special Supplement, is amended by adding:

“(c) As used in this Article, ‘crime insurance’ means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies approved by the Commissioner and issued by the Association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609.”

Sec. 25. G.S. 58-173.2(5) is amended by inserting “the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner, or” immediately before “the North Carolina Uniform Residential Building Code” in each place reference to that Code appears, except in the proviso at the end of the subsection.

Sec. 26. Chapter 58 of the General Statutes is amended by adding a new Article to read:

“Article 39.

“Local Government Risk Pools.

“§ 58-490. *Short title; definition.*—This Article shall be known and may be cited as the Local Government Risk Pool Act. As used in this Article, ‘local government’ means any county or municipal corporation located in this State.

“§ 58-491. *Local government pooling of property, liability and workers’ compensation coverages.*—In addition to other authority granted pursuant to Chapters 153A and 160A of the General Statutes, two or more local governments may enter into contracts or agreements pursuant to this Article for the joint purchasing of insurance or to pool retention of their risks for property losses and liability claims and to provide for the payment of such losses of or claims made against any member of the pool on a cooperative or contract basis with one another, or may enter into a trust agreement to carry out the provisions of this Article. In addition to other authority granted pursuant to Chapters 153A and 160A of the General Statutes, two or more local governments may enter into contracts or agreements pursuant to this Article to establish a separate workers’ compensation pool to provide for the payment of workers’ compensation claims pursuant to Chapter 97 of the General Statutes or to establish pools providing for life or accident and health insurance for their employees on a cooperative or contract basis with one another; or may enter into a trust agreement to carry out the provisions of this Article. A workers’ compensation pool established pursuant to this Article may only provide coverage for workers’ compensation, employers’ liability, and occupational disease claims.

“§ 58-492. *Board of trustees.*—(a) Each pool will be operated by a board of trustees consisting of at least five persons who are elected officials or employees of local governments within this State. The board of trustees of each pool will:

- (1) Establish terms and conditions of coverage within the pool, including underwriting criteria and exclusions of coverage;
 - (2) Ensure that all valid claims are paid promptly;
 - (3) Take all necessary precautions to safeguard the assets of the pool;
 - (4) Maintain minutes of its meeting and make those minutes available to the Commissioner;
 - (5) Designate an administrator to carry out the policies established by the board of trustees and to provide day to day management of the group and delineate in written minutes of its meetings the areas of authority it delegates to the administrator; and
 - (6) Establish guidelines for membership in the pool.
- (b) The board of trustees may not:
- (1) Extend credit to individual members for payment of a premium, except pursuant to payment plans approved by the Commissioner.
 - (2) Borrow any monies from the pool or in the name of the pool, except in the ordinary course of business, without first advising the Commissioner of the nature and purpose of the loan and obtaining prior approval from the Commissioner.

“§ 58-493. *Contract.*—A contract or agreement made pursuant to this Article must contain provisions:

- (1) For a system or program of loss control;
- (2) For termination of membership including either:
 - a. Cancellation of individual members of the pool by the pool; or
 - b. Election by an individual member of the pool to terminate its participation;
- (3) Requiring the pool to pay all claims for which each member incurs liability during each member's period of membership, except where a member has individually retained the risk, where the risk is not covered, and except for amount of claims above the coverage provided by the pool.
- (4) For the maintenance of claim reserves equal to known incurred losses and loss adjustment expenses and to an estimate of incurred but not reported losses;
- (5) For a final accounting and settlement of the obligations of or refunds to a terminating member to occur when all incurred claims are concluded, settled, or paid;
- (6) That the pool may establish offices where necessary in this State and employ necessary staff to carry out the purposes of the pool;
- (7) That the pool may retain legal counsel, actuaries, claims adjusters, auditors, engineers, private consultants, and advisors, and other persons as the board of trustees or the administrator deem to be necessary;
- (8) That the pool may make and alter bylaws and rules pertaining to the exercise of its purpose and powers;
- (9) That the pool may purchase, lease, or rent real and personal property it deems to be necessary; and

- (10) That the pool may enter into financial services agreements with financial institutions and that it may issue checks in its own name.

“§ 58-494. *Termination.*—A pool or a terminating member must provide at least 90 days' written notice of the termination or cancellation. A workers' compensation pool must notify the Commissioner of the termination or cancellation of a member within 10 days after notice of termination or cancellation is received or issued.

“§ 58-495. *Audit.*—Each pool must be audited annually at the expense of the pool by a certified public accounting firm, with a copy of the report available to the governing body or chief executive officer of each member of the pool and to the Commissioner. The board of trustees of the pool must obtain an appropriate actuarial evaluation of the loss and loss adjustment expense reserves of the pool, including an estimate of losses and loss adjustment expenses incurred but not reported. The Commissioner must examine each pool once every three years. The costs of such examination expenses will be paid by the pool that is subject to the examination. The Commissioner may examine a pool earlier than three years after a previous examination if he has reason to believe that the pool is insolvent or financially impaired.

“§ 58-496. *Insolvency or impairment of pool.*—(a) If, as a result of the annual audit or an examination by the Commissioner, it appears that the assets of a pool are insufficient to enable the pool to discharge its legal liabilities and other obligations, the Commissioner must notify the administrator and the board of trustees of the pool of the deficiency and his list of recommendations to abate the deficiency, including a recommendation not to add any new members until the deficiency is abated. If the pool fails to comply with the recommendations within 60 days after the date of the notice, the Commissioner must notify the chief executive officers or the governing bodies of the members of the pool, the Governor, the President of the Senate, and the Speaker of the House of Representatives that the pool has failed to comply with the recommendations of the Commissioner.

(b) If a pool is determined to be insolvent, financially impaired, or is otherwise found to be unable to discharge its legal liabilities and other obligations, each pool contract will provide that the members of the pool shall be assessed on a pro rata basis as calculated by the amount of each member's average annual contribution in order to satisfy the amount of deficiency. The assessment may not exceed the amount of each member's average annual contribution to the pool.

“§ 58-497. *Immunity of administrators and boards of trustees.*—There is no liability on the part of and no cause of action arises against any board of trustees established or administrator appointed pursuant to G.S. 58-492, their representatives, or any pool, its members, or its employees, agents, contractors, or subcontractors for any good faith action taken by them in the performance of their powers and duties in creating or administering any pool under this Article.

“§ 58-498. *Pools not covered by guaranty associations or solvency funds.*—The provisions of Articles 17B and 17C of this Chapter and of

Article 3 of Chapter 97 of the General Statutes do not apply to any risks retained by local governments pursuant to this Article.”

Sec. 27. G.S. 153A-435(a) is amended by inserting after the first sentence of the second paragraph, and G.S. 160A-485(a) is amended by inserting after the first sentence, the following:

“Participation in a local government risk pool pursuant to Article 39 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section.”

Sec. 28. Article 13C of Chapter 58 of the General Statutes is amended by adding a new section to read:

“§ 58-131.62. *Good faith immunity for operation of market assistance programs.*—There is no liability on the part of and no cause of action of any nature arises against any director, administrator, or employee of a market assistance program, or the Commissioner or his representatives, for any acts or omissions taken by them in creation or operation of a market assistance program. The immunity established by this section does not extend to willful neglect, malfeasance, bad faith, fraud, or malice that would otherwise make an act or omission actionable.”

Sec. 29. Article 13C of Chapter 58 of the General Statutes is amended by adding a new section to read:

“§ 58-131.63. *CGL extended reporting.*—Any policy for commercial general liability coverage wherein the insurer offers, and the insured elects to purchase, an extended reporting period for claims arising during the expiring policy period must provide:

- (1) That in the event of a cancellation permitted by G.S. 58-473 or nonrenewal effective under G.S. 58-474, there shall be a 30 day period before the effective date of the cancellation or nonrenewal during which the insured may elect to purchase coverage for the extended reporting period;
- (2) That the limit of liability in the policy aggregate for the extended reporting period shall be one hundred percent (100%) of the expiring policy aggregate; and
- (3) That the insurer will provide the following loss information to the first named insured within 30 days of an insured's request, or, with any notice of cancellation or nonrenewal:
 - a. All information on closed claims including date and description of occurrence, and amount of payments, if any;
 - b. All information on open claims including date and description of occurrence, amount of payment, if any, and amount of reserves, if any;
 - c. All information on notices of occurrence including date and description of occurrence and amount of resources, if any.”

Sec. 30. G.S. 58-27.22 is amended:

(a) By deleting the words, “county or municipality”, “counties and municipalities”, “counties or municipalities”, and “municipality and county” from the section, and by substituting the words “political subdivision” or “political subdivisions” as grammatically appropriate; and

(b) By adding the following, at the end:

“For purposes of this section, the term ‘political subdivision’ includes any county, city, town, incorporated village, sanitary district, metropolitan

water district, county water and sewer district, water and sewer authority, hospital authority, parking authority, local ABC boards, special airport district, airport authority, soil and water conservation district created pursuant to G.S. 139-5, fire district, volunteer or paid fire department, rescue squads, city or county parks and recreation commissions, area mental health boards, area mental health, mental retardation and substance abuse authority as described in G.S. 122C-117, domiciliary home community advisory committees, county and district boards of health, nursing home advisory committees, county boards of social services, local school administrative units, local boards of education, community colleges and technical institutes, and all other persons, bodies, or agencies authorized or regulated by Chapters 108A, 115C, 115D, 118, 122C, 130A, 131A, 131D, 131E, 153A, 160A, and 160B of the General Statutes."

Sec. 31. G.S. 130A-294 is amended by adding a new subdivision to read:

"(j) The Commission may adopt rules for financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures, and for potential liability for sudden and nonsudden accidental occurrences), which may permit the use of insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would have been provided by insurance if insurance were the only mechanism used. The Department may provide a copy of any filing to meet the financial responsibility requirements to the State Treasurer, who shall review the filing and provide written comments on the equivalency of protection provided by the filing, including recommended changes."

Sec. 32. G.S. 58-150 is amended by adding a new subsection (6) to read:

"(6) Satisfied the Commissioner that it is in substantial compliance with the provisions of G.S. 58-72.1 through G.S. 58-72.3 and Article 35 of this Chapter."

Sec. 33. G.S. 58-248.33(g)(6) is amended by adding the following sentence:

"No agent may be designated under this subdivision to any insurer that does not actively write voluntary market business."

Sec. 34. G.S. 58-248.34 is amended by adding a new subsection to read:

"(i) The Facility shall file with the Commissioner revisions in the Facility plan of operation for his approval or modification. Such revisions shall be made for the purpose of revising the classification and rating plans for other than nonfleet private passenger motor vehicle insurance ceded to the Facility."

Sec. 35. G.S. 55-19(a) is rewritten to read:

"(a) In addition to the indemnification provided for in G.S. 55-20 and G.S. 55-21, a corporation may in its charter or bylaws or by contract or resolution indemnify or agree to indemnify any one or more of its officers,

directors, employees, or agents against liability and litigation expense, including reasonable attorneys' fees, arising out of their status as such or their activities in any of the foregoing capacities; provided, however, that a corporation may not indemnify or agree to indemnify a person against liability or litigation expense he may incur on account of his activities which were at the time taken known or believed by him to be clearly in conflict with the best interests of the corporation. A corporation may likewise and to the same extent indemnify or agree to indemnify any person who, at the request of the corporation, is or was serving as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise or as a trustee or administrator under an employee benefit plan. Any charter or bylaw provision, contract, or resolution permitted under this section may include provisions for recovery from the corporation of reasonable costs, expenses, and attorneys' fees in connection with the enforcement of rights to indemnification granted therein and may further include provisions establishing reasonable procedures for determining and enforcing the rights granted therein."

Sec. 36. G.S. 55-19(b) is rewritten to read:

"(b) The authorization, adoption, approval, or favorable recommendation by the board of directors of a corporation or any charter or bylaw provision or contract or resolution, as permitted in this section, shall not be deemed an act or corporate transaction in which a director has an adverse interest, and no such charter or bylaw provision or contract or resolution shall be void or voidable on such grounds. Except as permitted in G.S. 55-30, no such bylaw, contract, or resolution not adopted, authorized, approved, or ratified by shareholders shall be effective as to claims made or liabilities asserted against any director prior to its adoption, authorization, or approval by the board of directors."

Sec. 37. G.S. 55-19(c) is amended by adding immediately after "trust or other enterprise" the words "or as a trustee or administrator under an employee benefit plan".

Sec. 38. G.S. 55-19(d) is amended by adding immediately after "in the specific case" the words "or as authorized or required under any charter or bylaw provision or by any applicable resolution or contract" and is further amended by deleting "as authorized in this section or in G.S. 55-20 or 55-21" and substituting "against such expenses".

Sec. 39. G.S. 55-20(a) is amended:

(a) By adding a immediately after the words "trust or other enterprise" the words ", or at the request of the corporation as a trustee or administrator under an employee benefit plan";

(b) In subparagraph (1) of that subsection, by deleting the words "on the merits";

(c) By deleting subparagraph (2) of that subsection and redesignating the following subparagraph as subparagraph (2);

(d) The first sentence of the newly designated subparagraph (2) is rewritten to read: "(2) If such person is not wholly successful or is unsuccessful in his defense, or the proceeding to which he is a party results in his indictment, fine, or penalty, the corporation shall pay such expenses of defense or participation, including attorneys' fees, and the amount of

any judgment, money decree, fine, penalty, or settlement for which he may have become liable, if.”; and

(e) By deleting the final period of subsubparagraph b. of the newly designated subparagraph (2) and substituting “, or”.

Sec. 40. G.S. 55-21(c) is amended by deleting “permitted” and substituting “provided”.

Sec. 41. G.S. 20-279.21(b)(3) is amended in the first paragraph:

(a) By deleting the phrase that begins with “and provided that” and that ends with “of third persons”, and by substituting the following:

“provided, an insured is entitled to secure additional coverage up to the limits of bodily injury liability in the owner’s policy of liability insurance that he carries for the protection of third persons.”; and

(b) By deleting “ten thousand dollars (\$10,000)” and by substituting the following:

“up to the limits of property damage liability in the owner’s policy of liability insurance.”.

Sec. 42. G.S. 20-279.21(b)(3) and (b)(4) are each amended by adding to the end of the first paragraph of G.S. 20-279.21(b)(3) and to the end of G.S. 20-279.21(b)(4) the following sentence:

“If the named insured rejects the coverage required under this subdivision, the insurer shall not be required to offer the coverage in any renewal, reinstatement, substitute, amended, altered, modified, transfer or replacement policy unless the named insured makes a written request for the coverage. Rejection of this coverage for policies issued after October 1, 1986, shall be made in writing by the named insured on a form promulgated by the North Carolina Rate Bureau and approved by the Commissioner of Insurance.”

Sec. 43. G.S. 58-248.33(b)(2) is amended by inserting on the line between the amounts for medical payments and uninsured motorist the following:

“Underinsured motorist: one hundred thousand dollars (\$100,000) each person and three hundred thousand dollars (\$300,000) each accident for bodily injury liability;”.

Sec. 44. G.S. 58-44.8 is amended by substituting “Article 36 of this Chapter” for “G.S.58-53.1”.

Sec. 45. G.S. 58-422(8) is amended by inserting between “insurance” and “independently” the following: “, insurance”.

Sec. 46. G.S. 58-424(a)(2)c. is amended by substituting “one” for “four” and “(\$1,500,000)” for “(\$4,500,000)”.

Sec. 47. G.S. 58-131.44(a) is amended by substituting the words, “obtain a license from and” between the words “shall” and “file”.

Sec. 48. G.S. 58-131.45(a) is amended by inserting the words, “obtain a license from and” between the words “file” and “with”.

Sec. 49. G.S. 57B-3 is amended by substituting the words, “full compliance with Article 17 of General Statute Chapter 58” for the words, “registration to do business in this State as a foreign corporation under Article 17 of Chapter 58”.

Sec. 50. G.S. 20-130.1(b) is amended by adding a new subdivision (11a) to read:

“(11a) A vehicle operated by the State Fire Marshal or his representatives in the performance of their duties, whether or not the State owns the vehicle;”.

Sec. 51. G.S. 143-143.13, as found in the 1985 Supplement, is amended by adding a new subsection (c) to read:

“(c) In addition to the authority to deny, suspend, or revoke a license under this Part, the Board also has the authority to impose a five hundred dollar (\$500.00) civil penalty upon any person violating the provisions of this Part.”

Sec. 52. G.S. 58-16.3 is amended by deleting the citation, “58-16.1” from the section.

Sec. 53. G.S. 58-151 is amended by designating the present section as subsection (a) and by adding a new subsection (b) to read:

“(b) Any foreign or alien company admitted to do business in this State shall have as a part of its corporate title one of the following: ‘insurance company’, ‘insurance association’, ‘insurance society’, ‘life’, ‘casualty’, or ‘indemnity’; and ‘mutual’, if the corporation is organized upon the mutual principle.”

Sec. 54. G.S. 97-94(a), as found in the 1985 Supplement, is amended by substituting “Industrial Commission” for “Commissioner of Insurance”.

Sec. 55. G.S. 1A-1, Rule 11(a) is rewritten to read as follows:

“(a) Signing by attorney. Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney’s fee.”

Sec. 56. G.S. 1A-1, Rule 8 (a)(2), is rewritten to read:

“(2) A demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded. In all negligence actions, and in all claims for punitive damages in any civil action, wherein the matter in controversy exceeds the sum or value of ten thousand dollars (\$10,000), the pleading shall not state the demand for monetary relief, but shall state that the relief demanded is

for damages incurred or to be incurred in excess of ten thousand dollars (\$10,000). However, at any time after service of the claim for relief, any party may request of the claimant a written statement of the monetary relief sought, and the claimant shall, within 10 days after such service, provide such statement, which shall not be filed with the clerk until the action has been called for trial or entry of default entered. Such statement may be amended in the manner and at times as provided by Rule 15."

Sec. 57. In the event any provision of this act is held to be invalid by any court of competent jurisdiction, the court's holding as to that provision shall not affect the validity or operation of other provisions of this act; and to that end the provisions of this act are severable.

Sec. 58. Section 28 of this act is effective March 10, 1986. Sections 9.1 through 20, and 29 of this act shall become effective September 1, 1986. Sections 41 through 43 of this act shall become effective October 1, 1986. Sections 55 and 56 shall become effective January 1, 1987, and shall apply to pleadings, motions, or papers filed on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

S.B. 726

CHAPTER 1028**AN ACT TO ABOLISH CERTAIN EXECUTIVE BRANCH BOARDS AND TO CONSOLIDATE THE FUNCTIONS OF OTHER BOARDS AND TO CREATE THE ADMINISTRATIVE RULES REVIEW COMMISSION.**

The General Assembly of North Carolina enacts:

Section 1. The Secretary of Natural Resources and Community Development shall abolish the Outdoors North Carolina Advisory Panel, created by directive of the Secretary dated January 11, 1980, within 30 days of the effective date of this act.

Sec. 2. The Secretary of Human Resources shall abolish the State Community Work Experience Committee within 30 days of the effective date of this act. The Secretary's directives establishing this committee shall be rescinded.

Sec. 3. The Governor's Commission for Recognition of State Employees, created by Executive Order Number 53 dated October 5, 1980, is abolished. The State Personnel Commission is authorized to perform the functions of this Commission.

Sec. 4. The Advisory Board for the Public Management Program, created by Executive Order Numbers 32 and 89, dated June 6, 1979, and January 11, 1983, respectively, is abolished. The State Personnel Commission is authorized to perform the functions of this Board.

Sec. 5. The Committee for Recognition of Management Excellence, created by Executive Order Number 94 dated July 1, 1983, is abolished. The State Personnel Commission is authorized to perform the functions of this Committee.

Sec. 6. G.S. 126-4 is amended by adding a new subdivision to read:

"(14) Recognition of State employees, public personnel management, and management excellence."

Sec. 7. The Governor's Oversight Committee for Official Labor Market Information, created by Executive Order Number 77 dated March 3, 1982, is abolished.

Sec. 8. The Wanchese Harbor Citizens Advisory Council is abolished, and Chapter 612 of the 1977 Session Laws is repealed. The Seafood Industrial Park Authority is authorized to perform the functions of this Council.

Sec. 9. The Arson Awareness Council is abolished. The North Carolina Arson Awareness Council, incorporated on June 20, 1985, is authorized to perform the functions of this Council.

Sec. 10. The Archaeological Advisory Committee is abolished, and Part 5 of Article 2 of Chapter 143B of the General Statutes, G.S. 143B-66 is repealed.

Sec. 11. The U.S.S. Monitor Technical Advisory Committee and the U.S.S. Monitor Research Council, created by Executive Order Number 20 dated March 31, 1978, are abolished.

Sec. 12. The Capital Area Visitor Service Committee, created by Executive Order Number 64 dated May 12, 1981, is abolished.

Sec. 13. The Theater Arts Advisory Board, created in 7 North Carolina Administrative Code 3D .0008, is abolished. The North Carolina Arts Council is authorized to perform the functions of the Board.

Sec. 14. G.S. 143B-87 is amended by deleting the word "and" at the end of subdivision (5), by changing the period at the end of subdivision (6) to a semicolon and adding the word "and" after the semicolon, and by adding a new subdivision to read:

"(7) To advise the Secretary concerning the promotion of theater arts in the State."

Sec. 15. G.S. 143B-61.1 is rewritten to read:

"§ 143B-61.1. *Termination of the Art Museum Building Commission.*—(a) The Art Museum Building Commission shall expire when it submits its final report. The Commission shall make its final report to the General Assembly and Governor 120 days after the final resolution of all cases or claims in which the Commission is a party or that are brought under G.S. 143-135.3 regarding the State Art Museum."

Sec. 16. G.S. 140-5.3 through 140-5.6 are repealed.

Sec. 17. G.S. 140-5.17 is amended by deleting the phrase "Article 1A of Chapter 140 and in".

Sec. 18. G.S. 143B-58 is amended by adding a new subdivision to read:

"(9) To defend any suit against it, prosecute any cause of action that it may possess, assert any claim it may have, and defend any claim that might be brought against it."

Sec. 19. G.S. 143B-58(7) is rewritten to read:

"(7) To report to the General Assembly and the Governor on November 1 of each year on its activities in the preceding fiscal year, to make any special reports requested by the General Assembly or Governor, and to make a final report as required by G.S. 143B-61.1."

Sec. 20. The Governor's Council on Management and Development is abolished. The Governor's Management Council is authorized to perform the functions of the Council on Management and Development.

Sec. 21. The Special Advisory Committee on Non-Public Education, created by Executive Order Number 49 dated April 30, 1980, is abolished.

Sec. 22. The North Carolina Employment and Training Council is abolished.

Sec. 23. The Community Employment and Training Council is abolished.

Sec. 24. The Balance of State Private Industry Council is abolished.

Sec. 25. G.S. 143B-279(17) and Part 24 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-340 and 143B-341, are repealed.

Sec. 26. The Coastal Energy Impact Program Advisory Board, created by 15 North Carolina Administrative Code 7N .0205, is abolished.

Sec. 27. The Governor's Task Force on Ridesharing, created by Executive Order Number 50, dated May 15, 1980, is abolished. The North Carolina Public Transportation Advisory Council is authorized to perform the duties of the Task Force.

Sec. 28. The North Carolina Arthritis Committee is abolished, and Part 16A of Article 3 of Chapter 143B of the General Statutes, G.S. 143B-184 and 143B-185, is repealed. The Commission for Health Services is authorized to perform the functions of the Committee.

Sec. 29. The North Carolina Advisory Council on Teacher Education, created in 16 North Carolina Administrative Code 2H .0103, is abolished.

Sec. 30. The John H. Kerr Reservoir Committee is abolished. G.S. 143B-279(19) and Part 19 of Article 7 of Chapter 143B of the General Statutes, G.S. 143B-328 through 143B-330, are repealed. This act does not prevent local officials in counties affected by the reservoir from establishing a local advisory group.

Sec. 31. The Child and Family Services Interagency Committees are abolished and Part 21 of Article 8 of Chapter 143B of the General Statutes, G.S. 143B-426.2 through 143B-426.7A, is repealed.

Sec. 32. Article 1 of Chapter 143B of the General Statutes is amended by adding a new Part 3 to read:

"Part 3. Administrative Rules Review Commission.

"§ 143B-30. Definitions.—As used in this Part, the following definitions apply:

'Agency' means an agency subject to the provisions of Article 2 of Chapter 150B of the General Statutes.

'Commission' means the Administrative Rules Review Commission.

'Rule' means a 'rule', as defined in G.S. 150B-2(8a).

"§ 143B-30.1. Administrative Rules Review Commission created.—The Administrative Rules Review Commission is created. The Commission shall consist of eight members to be appointed by the General Assembly, four upon the recommendation of the President of the Senate, and four upon the recommendation of the Speaker of the House of Representatives. These appointments shall be made in accordance with G.S. 120-121, and vacancies in these appointments shall be filled in accordance with G.S. 120-122. All appointees shall serve two-year terms. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, ineligibility, death, or disability of any member shall be for the balance of the unexpired term. The chairman shall be elected by the Commission,

and he shall designate the times and places at which the Commission shall meet. The Commission shall meet at least once a month. A quorum of the Commission shall consist of five members of the Commission.

Members of the Commission who are not officers or employees of the State shall receive compensation of two hundred dollars (\$200.00) for each day or part of a day of service plus reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

The Office of Administrative Hearings shall provide administrative and support staff to the Commission to assist it in performing its duties.

“§ 143B-30.2. *Review of rules.*—(a) Rules adopted by an agency on or after September 1, 1986, shall be submitted to the Administrative Rules Review Commission, which shall review the rule to determine whether it:

- (1) Is within the authority delegated to the agency by the General Assembly;
- (2) Is clear and unambiguous;
- (3) Is reasonably necessary to enable the administrative agency to perform a function assigned to it by statute or to enable or facilitate the implementation of a program or policy in aid of which the rule was adopted.

The Commission shall review a rule submitted to it not later than the last day of the first calendar month following the month when the rule was submitted. The Commission, by a majority vote of the members present and voting, may extend the time for review of a rule by 60 days to obtain additional information on a rule. The Commission shall file notice of the extension of time for review of a rule with the agency and the Director of the Office of Administrative Hearings. An agency may not present a rule for filing with the Director of the Office of Administrative Hearings under G.S. 150B-59 unless the rule has been reviewed by the Commission as provided in this section.

(b) If the Commission reviews a rule and determines that it is within the authority delegated to the agency, is clear and unambiguous, and is reasonably necessary, the Commission shall note its approval and return the rule to the agency. The agency may then file the rule with the Director of the Office of Administrative Hearings under G.S. 150B-59, and the rule shall become effective as provided in that section.

(c) If the Commission finds that an agency did not act within the authority delegated to it in promulgating a rule or a part of a rule, or that a rule is not clear and unambiguous, or that a rule is unnecessary, the Commission shall object and delay the filing of the rule or part of the rule under G.S. 150B-59 for a period not to exceed 90 days. The Commission shall send to the agency, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Administrative Hearings, a written report of the objection and delay of the rule or its part and the reasons for the delay. An agency may not present a rule or part of a rule that has been delayed to the Director of the Office of Administrative Hearings for filing under G.S. 150B-59, and a rule or its part that is delayed is not ‘effective’, as defined in G.S. 150B-2(2a).

(d) Within 30 days after receipt of the Commission's written report, the agency shall either (1) revise the rule to remove the cause of the objections of the Commission and return the revised rule to the Commission or (2) return the rule to the Commission without change with the Commission's objections attached. The Commission shall determine whether a revision removes its objections to the rule.

(e) If the Commission determines that a revision of a rule has removed the Commission's objections, the Commission shall note its approval and return the rule to the agency. The agency may then file the rule with the Director of the Office of Administrative Hearings under G.S. 150B-59, and the rule shall become effective as provided in that section.

(f) Regardless of whether the agency returns the rule to the Commission without change instead of revising the rule to remove the Commission's objections or whether the Commission determines that a revision of a rule has not removed its objections, the Commission shall note its approval of the rule once 90 days have passed since the Commission objected and delayed the filing of the rule or part of the rule pursuant to G.S. 143B-30.2(c) and shall return the rule to the agency. However, if the agency returns the rule to the Commission without change instead of revising the rule to remove the Commission's objections, or if the Commission determines that a revision of a rule has not removed its objections, the Commission's approval shall be accompanied by a notation of the Commission's objection to the rule. The agency may then file the rule with the Director of the Office of Administrative Hearings under G.S. 150B-59, and the rule shall become effective as provided in that section. If the agency did not remove the Commission's objections to the rule or part of the rule, the Commission may send to the President of the Senate and the Speaker of the House of Representatives a written report of its objections to the rule. Thereafter, if the General Assembly enacts legislation disapproving the rule, the rule shall no longer be effective.

The Legislative Services Officer shall send a copy of any law disapproving a rule to the agency and the Director of the Office of Administrative Hearings as soon as a copy is available.

(g) While the filing of a rule or its part is delayed, the agency that promulgated it may not adopt another rule, including a temporary rule, that has substantially identical provisions to those for which the Commission delayed the filing of the original rule or part of a rule.

(h) The filing of an amendment to a rule places the entire rule before the Commission for its review.

“§ 143B-30.3. *Hearings*.—(a) Notwithstanding G.S. 143B-30.2(a), the chairman of the Commission may at any time before the time for review set out in that subsection expires call a public hearing on any rule or part of a rule upon the recommendation of the Commission or on the motion of any member of the Commission. Within 60 days after the public hearing, the Commission may find that the agency did not act within the authority delegated to it in promulgating the rule, or that the rule is not clear and unambiguous, or that the rule is unnecessary, and object to and delay the rule in accordance with G.S. 143B-30.2.

(b) At least 15 days before the public hearing, the Commission shall give notice of the hearing to the rulemaking agency, to any person who

requests a copy of the notice, and to any person who may be affected by the rule in the opinion of the chairman of the Commission.

“§ 143B-30.4. *Evidence.*—Evidence of the Commission’s failure to object to and delay the filing of a rule or its part shall be inadmissible in all civil or criminal trials or other proceedings before courts, administrative agencies, or other tribunals.”

Sec. 33. G.S. 120-123 is amended by adding a new section to read:

“(1a) The Administrative Rules Review Commission as established by G.S. 143B-30.1.”

Sec. 34. G.S. 150B-59(a) is amended by deleting from the second sentence the phrase “or curative rules adopted pursuant to G.S. 143B-29.2(d)” and substituting the phrase “or rules approved under G.S. 143B-30.2(e) or (f)”.

Sec. 35. G.S. 150B-60(a)(5) is rewritten to read:

“(5) Bear a notation from the Administrative Rules Review Commission that it has reviewed and approved the rule in accordance with G.S. 143B-30.2.”

Sec. 36. The second, third, and fourth sentences of G.S. 150B-59(c) are rewritten to read:

“Rules adopted by an agency subject to the provisions of Article 2 of this Chapter in effect on September 1, 1986, that do not conflict with or violate the provisions of G.S. 150B-9(c) shall remain in effect until June 30, 1988. These rules are repealed effective July 1, 1988, unless the Administrative Rules Review Commission determines that a rule complies with G.S. 143B-30.2(a). Review of these rules shall be carried out in the manner prescribed in G.S. 143B-30.2 except that a rule determined to be in compliance shall remain in effect.”

Sec. 37. Each agency subject to Articles 2 and 5 of Chapter 150B of the General Statutes shall, not later than September 1, 1986, review its rules as required by Section 3 of Chapter 746 of the 1985 Session Laws except that the report required therein shall be filed with the Administrative Rules Review Commission and not the General Assembly. An agency that substantially complied with Section 3 of Chapter 746 of the 1985 Session Laws shall not refile the report filed with the General Assembly but shall supplement that report by filing a similar report with the Administrative Rules Review Commission as to any rules that became effective after the preparation of the original report. The Legislative Services Officer shall deliver all reports filed in compliance with Section 3 of Chapter 746 of the 1985 Session Laws to the chairman of the Administrative Rules Review Commission. The chairman may require an agency to file a new report if there is any dispute as to whether one has been filed or whether one that has been filed complies with the requirements set forth in that section.

Sec. 38. The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this act that can be given effect without the invalid provision.

Sec. 39. Sections 1 through 31 of this act shall not affect pending litigation.

Sec. 40. The second sentence of G.S. 150B-32(a) is amended by deleting the words "in the petition to commence the case" and is further amended by deleting the language following the last comma and substituting the following:

"or one or more hearing officers designated by the agency to conduct contested cases shall preside at the contested case."

Sec. 41. Sections 1 through 31 of this act shall become effective 30 days after ratification. Sections 32 through 38 of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

S.B. 1294

CHAPTER 1029

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES
UPON THE RECOMMENDATION OF THE PRESIDENT OF THE
SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President of the Senate; and

Whereas, the President of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Justus M. (Judd) Ammons of Wake County is appointed to the Board of State Contract Appeals for a term to expire on June 30, 1988.

Sec. 2. Ronald Saucier of New Hanover County is appointed to the Child Day Care Commission for a term to expire on June 30, 1988. This appointment is the one affiliated with a for-profit day care center or plan. Dorothy C. Scoggins of Mecklenburg County is appointed to the Child Day Care Commission for a term to expire on June 30, 1988. This appointment is the one affiliated with a nonprofit day care center or plan.

Sec. 3. Seth Thomas Walton of Buncombe County is appointed to the Private Protective Services Board for a term to expire on June 30, 1989. James Lester Rhew of Buncombe County is appointed to the Private Protective Services Board for a term to expire June 30, 1988. Section 32 of Chapter 911, Session Laws of 1983 is repealed.

Sec. 4. David A. Smith of Davidson County is appointed to the North Carolina Milk Commission for a term to expire on June 30, 1990. This is the categorical appointment for a Grade A producer.

Sec. 5. Edwin Pate Bailey of Wake County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 1988.

Sec. 6. Dr. Darrell Trull of Cabarrus County, Ralph Kimmel of Forsyth County and Benjamin S. Ruffin of Durham County are appointed to the North Carolina Board for Need-Based Student Loans for terms to expire on July 1, 1990.

Sec. 7. David Winston Carter of Wake County is appointed to the Alarm Systems Licensing Board for a term to begin on October 1, 1986, and to expire on September 30, 1989.

Sec. 8. Dr. Sandra M. Greene of Orange County is appointed to the North Carolina Medical Database Commission for a term to expire on June 30, 1989. This is the Blue Cross and Blue Shield categorical appointment. Dr. Duncan Yaggy of Durham County is appointed to the North Carolina Medical Database Commission for a term to expire on June 30, 1989. This is the categorical appointment for a health care provider.

Sec. 9. Joe E. Harris, Jr., of Surry County and L. Ed Tipton of Pitt County are appointed to the North Carolina Housing Commission for terms to expire on June 30, 1989.

Sec. 10. Deana Anderson Goldstein of Buncombe County is appointed to the Board of Directors of the Western North Carolina Arboretum for a term to expire on June 30, 1990. William Frank Forsyth of Cherokee County is appointed to the Board of Directors of the Western North Carolina Arboretum for a term to expire on June 30, 1988.

Sec. 11. Dr. Pam Mayer of Wake County is appointed to the North Carolina Center for the Advancement of Teaching to fill the unexpired term of Dr. Jay Robinson to expire on June 30, 1989.

Sec. 12. Jeanne Fenner of Wilson County is appointed to the Commission for Mental Health, Mental Retardation and Substance Abuse Services for the unexpired term of Maxine O'Kelley expiring June 30, 1987.

Sec. 13. Carson Bain of Guilford County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term to expire June 30, 1987.

Sec. 14. Dr. Fletcher Keith of Mecklenburg County is appointed to the State Board of Chiropractic Examiners for a term to expire on June 30, 1989.

Sec. 14.1. Dr. Edmund Estes of Wake County and Tom H. Shepherd of Chowan County are appointed to the Northeastern North Carolina Farmers Market Commission for terms to expire June 30, 1988. Sam Walker of Currituck County and Grace Bonner of Beaufort County are appointed to the Northeastern North Carolina Farmers Market Commission for terms to expire June 30, 1990.

Sec. 14.2. Dr. Frank Bordeaux of Wake County and J. T. "Tommy" Wellington of Robeson County are appointed to the Southeastern North Carolina Farmers Market Commission for terms to expire June 30, 1988. Durwood Sinclair of Sampson County and Al Parker of Brunswick County are appointed to the Southeastern North Carolina Farmers Market Commission for terms to expire June 30, 1990. Dr. Frank Bordeaux is designated as chairman.

Sec. 14.3. G.S. 120-123 is amended by adding two new subdivisions to read:

"(49) The Northeastern North Carolina Farmers Market Commission as established by G.S. 106-720.

(50) The Southeastern North Carolina Farmers Market Commission as established by G.S. 106-727."

Sec. 14.4. Beryl Wade of Cumberland County, William C. Crawford of Montgomery County, M. Jackson Nichols of Wake County, and Charles

D. Woodard of Wayne County are appointed to the Administrative Rules Review Commission for terms to expire June 30, 1988.

Sec. 14.5. Section 29.1 of Chapter 774, Session Laws of 1985 is repealed.

Sec. 14.6. Kenneth R. Newbold of Duplin County, Gladys Graves of Guilford County, and Dr. Leroy T. Walker of Durham County are appointed to the North Carolina Teaching Fellows Commission for terms to expire July 1, 1990. In accordance with G.S. 115C-363.23(e), Thomas W. Lambeth of Forsyth County shall serve as chairman.

Sec. 14.7. Hector MacLean of Robeson County, John Paige Revell of Hertford County and Leonard Hedgepeth of Cumberland County are appointed to the North Carolina Agricultural Finance Authority for terms to expire on June 30, 1989.

Sec. 15. Unless otherwise specified, all appointments made by this act are for terms to begin upon ratification of this act or July 1, 1986, whichever is later.

Sec. 16. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

S.B. 1301

CHAPTER 1030

AN ACT TO CHANGE THE EFFECTIVE DATE FOR THE COMMENCEMENT OF BENEFITS FROM THE SHERIFFS' SUPPLEMENTAL PENSION FUND FROM JULY TO JANUARY OF EACH YEAR AND TO CAUSE ANY EXCESS ASSETS OF FUND TO BE TRANSFERRED TO THE SUPPLEMENTAL RETIREMENT INCOME PLAN FOR OTHER LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166.83(a) is amended by rewriting the subsection to read:

“(a) Immediately following July 1, 1986, the Department of Justice shall divide an amount equal to forty-five percent (45%) of the assets of the Fund at the end of the preceding fiscal year into equal share and disburse the same as monthly pension payments to all eligible retired sheriffs as of July 1, 1986, payable in accordance with the method described in G.S. 143-166.85(a), except that such pension benefit shall be computed for a six-months basis beginning with the month of July, 1986.”

Sec. 2. G.S. 143-166.83 is further amended by designating the existing subsections (b) and (c) as subsections (d) and (e) and adding new subsections (b), (c) and (f) to read:

“(b) Immediately following January 1, 1987, and the first of January of each succeeding calendar year thereafter, the Department of Justice shall divide an amount equal to ninety percent (90%) of the assets of the Fund at the end of the preceding calendar year into equal shares and disburse the same as monthly payments in accordance with the provisions of this Article.

(c) The remaining ten percent (10%) of the Fund's assets as of December 31, 1986, and at the end of each calendar year thereafter, may be used by the Department of Justice in administering the provisions of this Article. For the six-month period commencing July 1, 1986, five percent (5%) of the Fund's assets at the end of the preceding fiscal year may be used for this purpose.

(f) As of January 1, 1987, and the beginning of each calendar year thereafter, any assets remaining after reserving an amount equal to the disbursements required under subsections (b) and (c) of this section shall be transferred to the Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers, except elected Sheriffs, to be disbursed in accordance with the provisions of G.S. 143-166.50(e) as additional contributions made in the same manner as receipts from the cost of court collections."

Sec. 3. G.S. 143-166.84(b) is amended by rewriting the subsection to read:

"(b) Each eligible retired Sheriff as defined in subsection (a) of this section on January 1 of each calendar year shall be entitled to receive a monthly pension under this Article beginning with the month of January of the same calendar year."

Sec. 4. G.S. 143-166.85(a) is amended by deleting the phrase "June 30 of each fiscal year" and substituting the phrase "December 31 of each calendar year", and is further amended by deleting the reference "G.S. 143-168.3(a)" and substituting the reference "G.S. 143-166.83(b)".

Sec. 5. (a) G.S. 143-166.84(a) is amended in the first line by deleting the word "elected" and in the fifth line by deleting the words "an elected" and by deleting the last sentence.

(b) 143-166.85(a) is amended in the third line by deleting the words "an elected".

Sec. 6. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

H.B. 2103

CHAPTER 1031

AN ACT TO AMEND THE INSURANCE PREMIUM TAX LAW.

Whereas, the projection of the Fiscal Research Division indicates that under Sections 1 through 5 of this act in taxable year 1988 (the third year) there will be a shortfall of sixteen million dollars (\$16,000,000) as compared with the rates charged in 1985; and

Whereas, it is the intention of the General Assembly that any modification of insurance premium taxes be revenue neutral; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.5 is amended by rewriting the first paragraph to read:

"Every insurance company shall pay to the Commissioner of Insurance, at the time and rates provided in this section, a tax measured by gross

premiums from business done in this State during the preceding calendar year.”

Sec. 2. G.S. 105-228.5 is amended by inserting a new paragraph between paragraphs two and three to read:

“An insurer, in computing its premium taxes, shall pay premium taxes on a premium for the purchase of annuities at the time the premium is collected, instead of at the time the contract holder elects to commence annuity benefits.”

Sec. 3. G.S. 105-228.5 is amended by rewriting paragraph six to read as follows:

“The tax rate to be applied to gross premiums collected on contracts applicable to liabilities under the Workers’ Compensation Act shall be two and five-tenths percent (2.5%). The tax rate to be applied to gross premiums collected on annuities and all other insurance contracts issued by insurers shall be one and seventy-five hundredths percent (1.75%). The tax rate to be applied to amounts collected on contracts of insurance applicable to fire and lightning coverage (except marine and automobile policies) shall be one percent (1.0%) in addition to the one and seventy-five hundredths percent (1.75%) tax.”

Sec. 4. G.S. 105-228.5 is amended by inserting a new paragraph between the eighth and ninth paragraphs to read:

“Insurance companies with a premium tax liability of ten thousand dollars (\$10,000) or more for business done in North Carolina during the immediately preceding year shall remit an amount equal to at least twenty-seven and one-half percent (27 ½%) of the premium tax liability in the immediately preceding taxable year on or before April 15 of the taxable year and an amount equal to at least twenty-seven and one-half percent (27 ½%) of the premium tax liability in the immediately preceding taxable year on or before July 15 of the taxable year.

In addition each company required to make the installment payments required under this section shall submit, to the Commissioner of Insurance on or before October 15 of the taxable year, a document of estimated tax which shall state estimated gross premium receipts from business done in this State for the taxable year, estimated premium taxes, and any other information required by the Commissioner of Insurance. At the time the declaration of estimated tax is submitted, the company shall remit an amount such that on or before October 15 of the taxable year seventy-five percent (75%) of the estimated premiums tax for the taxable year has been remitted to the Commissioner of Insurance. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

For taxable years beginning on or after January 1, 1988, the second installment payment shall be due on or before June 15 of the taxable year.

If a company does not meet the installment payment requirement of this section, the Commissioner of Insurance shall assess a penalty on underpayments that is equal to the interest rate adopted by the Secretary of Revenue under G.S. 105-241.1(i). Any overpayment shall be credited to the company and applied against the taxes imposed upon the company under this Article.”

Sec. 5. G.S. 105-228.5 is amended by adding two paragraphs between paragraphs six and seven to read:

"If the Commissioner finds, after a hearing held in accordance with G.S. 58-9.2, that in all or any part of this State, any amount or kind of insurance authorized by G.S. 58-72(4) through G.S. 58-72(22) is not readily available in the voluntary market and that the public interest requires the availability of that insurance, he may designate that insurance as a depressed line of insurance. The gross premium tax rate imposed on a line of insurance determined by the Commissioner to be a depressed line of insurance may be reduced to encourage the marketing of that depressed line. The Commissioner shall determine in December whether reduced rates in effect shall be continued for the next calendar year. In no event shall aggregate tax reductions under this paragraph for any taxable year exceed five percent (5.0%) of the gross premium tax revenues collected under this section during the immediately preceding fiscal year.

An insurance company domiciled in this State is entitled to a credit against the premium taxes imposed by this section for fifty percent (50%) of any retaliatory taxes paid to other states."

Sec. 5.1. Effective for taxable years beginning on or after January 1, 1988, G.S. 105-228.5 and G.S. 105-228.6 are repealed, except that the seventh paragraph of G.S. 105-228.5 as it existed before this act is not repealed, but is instead amended by deleting "The taxes levied herein measured by premiums shall be in lieu of all other taxes upon insurance companies except", and substituting "The only taxes upon insurance companies shall be". This section does not affect the rights or liabilities of the State, a taxpayer, or other persons arising under these sections before their repeal, nor does it affect the right to any refund of a tax that would otherwise have been available before the repeal.

Sec. 5.2. Not later than for the taxable year 1988, the General Assembly will reexamine insurance premium taxes with a view to making the changes revenue neutral.

Sec. 6. This act shall be effective with respect to taxable years beginning on and after January 1, 1986.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

H.B. 2141

CHAPTER 1032

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, AND TO MAKE OTHER AMENDMENTS AFFECTING THE RAILROAD NEGOTIATING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Studies Authorized. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1985 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

- (1) Uniform System of Voting Machines (H.B. 1664 - Wood),

- (2) Adolescent Pregnancy and Premature Births (H.B. 2078 - Jeralds),
(3) Low-Level Radioactive Waste Regulation (S.B. 882 - Tally),
(4) Campaign and Election Procedures (S.B. 1002 - Martin, W.)
(5) Veterans Cemetery Study (H.B. 2117 - Lancaster).

Sec. 2. Transportation Matters. The Legislative Research Commission may study the actions proposed in the following portions of Senate Bill 866 of the 1985 General Assembly as introduced by Senator Redman:

Part I
Parts VII through XIII, and
Part XV.

Sec. 3. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1987 General Assembly.

Sec. 4. Bills and Resolution References. The listing of the original bill or resolution in Sections 1 through 3 of this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

—EXTEND COMPLIANCE WITH VOTING ACCESSIBILITY FOR THE
ELDERLY AND HANDICAPPED ACT.

Sec. 4.1. Section 4 of Chapter 4, Session Laws of the Extra Session of 1986 is amended by deleting "October 1, 1986" and substituting "July 1, 1987".

—RAILROAD NEGOTIATING COMMISSION AMENDMENTS.

Sec. 5. Section 13.4(b) of Chapter 792, Session Laws of 1985 is rewritten to read:

"(b) The cochairmen of the Commission may appoint an executive committee for such purposes as determined by the Commission."

Sec. 6. The first sentence of Section 13.7(4) of Chapter 792, Session Laws of 1985 is repealed.

Sec. 7. Section 13.8 of Chapter 792, Session Laws of 1985 is amended by adding the following at the end:

"The Boards of Directors of the railroads (or the Board of Directors of the railroad, if the two railroads are merged or combined) each should appoint a negotiating committee to conduct negotiations concerning the leases. If such committees are established, the Commission shall designate two or more of its members (other than the Commission members appointed under subdivisions (6) and (7) of Section 13.2 of this act) who may attend the negotiating sessions of each railroad, without a vote; provided that if the two railroads are not merged or combined, no person so designated may attend the negotiating sessions of both railroads."

Sec. 8. Section 13.10 of Chapter 792, Session Laws of 1985 is repealed.

Sec. 9. Section 13.14 of Chapter 792, Session Laws of 1985 is rewritten to read:

"Sec. 13.14. The Commission shall advise the Governor and General Assembly of its opinion as to whether the Governor should vote his proxy

to approve any lease negotiated by the Board of Directors of each railroad, or the Board of Directors of a merged or combined railroad, if such lease requires shareholder approval, and shall advise the Council of State whether it should approve the lease under Chapter 124 of the General Statutes.”

Sec. 10. Section 13.15 of Chapter 792, Session Laws of 1985 is amended by adding the following immediately before the period at the end: “, and shall recommend the same to the Governor, in the exercise of his executive function of disposing of property. In any vote on whether the stock held by the State should be sold, the members appointed under subdivisions (6) and (7) of Section 13.2 of this act would be invited to attend the meetings in this regard and to offer the Commission advice and opinion, but would not be entitled to vote.”

Sec. 11. Article 6A.1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

“§ 120-30.9H. *Decision letters of U. S. Attorney General published in North Carolina Register.*—All letters and other documents received by the authorities required by this Article to submit any ‘changes affecting voting’ from the Attorney General of the United States in which a final decision is made concerning a submitted ‘change affecting voting’ shall be filed with the Director of the Office of Administrative Hearings. The Director shall publish the letters and other documents in the North Carolina Register.”

Sec. 12. G.S. 150B-63(d1) is amended by adding between the words “information” and “relating” the words “required by law to be published in it, and information”.

Sec. 12.1. Chapter 792 of the 1985 Session Laws (First Session, 1985) is amended by adding the following to Section 11.7:

“Upon the approval of the Legislative Services Commission, additional expenses of the Study Commission on State Parks and Recreation Areas shall be paid from funds appropriated to the General Assembly for the 1986-87 fiscal year.”

Sec. 12.2. Used Tire and Waste Oil Disposal. The Legislative Research Commission may study problems surrounding the environmentally safe disposal of used tires and waste oil and their possible solutions.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

RESOLUTIONS

S.R. 1180

RESOLUTION 35

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SANKEY WRIGHT ROBINSON.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SANKEY WRIGHT ROBINSON."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1986.

H.R. 1442

RESOLUTION 36

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO GRANT GENERAL LAW POWER OF EMINENT DOMAIN TO COUNTY WATER AND SEWER DISTRICTS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO GRANT GENERAL LAW POWER OF EMINENT DOMAIN TO COUNTY WATER AND SEWER DISTRICTS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1986.

H.R. 1462

RESOLUTION 37

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER "A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITY TO TRANSFER RIGHTS IN HOSPITAL FACILITIES TO AN AHEC PROGRAM."

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITY TO TRANSFER RIGHTS IN HOSPITAL FACILITIES TO AN AHEC PROGRAM."

Sec. 2. This resolution is effective upon ratification.

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In the General Assembly read three times and ratified, this the 23rd day of June, 1986.

H.R. 1529

RESOLUTION 38

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER "A BILL TO BE ENTITLED AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW IN COMPLIANCE WITH FEDERAL LAW REGARDING FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION."

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW IN COMPLIANCE WITH FEDERAL LAW REGARDING FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1986.

H.R. 1605

RESOLUTION 39

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO AMEND THE NORTH CAROLINA REGIONAL RECIPROCAL BANKING ACT.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO AMEND THE NORTH CAROLINA REGIONAL RECIPROCAL BANKING ACT."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1986.

H.R. 1746

RESOLUTION 40

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO PERMIT CERTAIN BEAUTIFICATION DISTRICTS TO HOLD ABC ELECTIONS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO PERMIT CERTAIN BEAUTIFICATION DISTRICTS TO HOLD ABC ELECTIONS."

Sec. 2. This resolution is effective upon ratification.

Resolutions—1986

In the General Assembly read three times and ratified, this the 25th day of June, 1986.

H.R. 1624

RESOLUTION 41

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO TRANSFER CERTAIN PROPERTY OF THE JUVENILE EVALUATION CENTER IN BUNCOMBE COUNTY TO THE BUNCOMBE COUNTY BOARD OF EDUCATION TO USE AS PART OF A HIGH SCHOOL CAMPUS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO TRANSFER CERTAIN PROPERTY OF THE JUVENILE EVALUATION CENTER IN BUNCOMBE COUNTY TO THE BUNCOMBE COUNTY BOARD OF EDUCATION TO USE AS PART OF A HIGH SCHOOL CAMPUS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.R. 1735

RESOLUTION 42

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO ESTABLISH A PENALTY FOR DAMAGE TO ARTIFICIAL REEFS AND MARKING DEVICES TO IDENTIFY REEFS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO ESTABLISH A PENALTY FOR DAMAGE TO ARTIFICIAL REEFS AND MARKING DEVICES TO IDENTIFY REEFS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1986.

H.R. 1635

RESOLUTION 43

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER "A BILL TO BE ENTITLED AN ACT TO REQUIRE REQUESTS FOR CONSENT TO ANATOMICAL GIFTS."

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO REQUIRE REQUESTS FOR CONSENT TO ANATOMICAL GIFTS."

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Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.R. 1845

RESOLUTION 44

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO REPEAL CHAPTER 461 OF THE 1985 SESSION LAWS CONCERNING THE VENUS FLY TRAP PLANT.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO REPEAL RESOLUTION 461 OF THE 1985 SESSION LAWS CONCERNING THE VENUS FLY TRAP PLANT."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.R. 2041

RESOLUTION 45

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GEORGE M. WOOD.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GEORGE M. WOOD."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

S.R. 992

RESOLUTION 46

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND CONFORMING AMENDMENTS TO THE ADMINISTRATIVE PROCEDURE ACT.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND CONFORMING AMENDMENTS TO THE ADMINISTRATIVE PROCEDURE ACT."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.

H.R. 2118

RESOLUTION 47

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN P. EAST.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN P. EAST."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1986.

S.R. 934

RESOLUTION 48

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO MAKE A TECHNICAL AMENDMENT TO G.S. 143-215.1.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO MAKE A TECHNICAL AMENDMENT TO G.S. 143-215.1."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.R. 2115

RESOLUTION 49

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CERTAIN HOUSING AUTHORITIES TO PROVIDE HOUSING FOR MODERATE INCOME PERSONS. T+1

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CERTAIN HOUSING AUTHORITIES TO PROVIDE HOUSING FOR MODERATE INCOME PERSONS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

H.R. 1886

RESOLUTION 50

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO EXEMPT STATE OPERATED CURB MARKETS FROM CERTAIN FOOD REGULATIONS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO EXEMPT STATE OPERATED CURB MARKETS FROM CERTAIN FOOD REGULATIONS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1986.

S.R. 953

RESOLUTION 51

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SANKEY WRIGHT ROBINSON.

Whereas, Sankey Wright Robinson was born in Columbus County, the son of Jimsey Lewis and Mary Ann Britt Robinson; and

Whereas, Sankey Wright Robinson was a graduate of Evergreen High School and Wake Forest University and received his law degree from the Wake Forest School of Law in 1951; and

Whereas, Sankey Wright Robinson then established a law office in Whiteville, where he worked for 35 years; and

Whereas, Sankey Wright Robinson became interested in politics in early life; he worked actively on all levels of Young Democrats and served a term as vice president of the North Carolina Young Democrats; and

Whereas, Sankey Wright Robinson was an ardent believer and worker in the Democratic party; and

Whereas, Sankey Wright Robinson served in 1969 as State Senator from Columbus, Bladen, and Brunswick Counties; and

Whereas, Sankey Wright Robinson was a former member of the Board of Trustees of Pembroke State University for 12 years and served as its chairman during that period; and

Whereas, Sankey Wright Robinson also was Columbus County Solicitor for a number of years and served a four-year term as Columbus County Recorder; and

Whereas, Sankey Wright Robinson served as County Attorney for Columbus County; and

Whereas, Sankey Wright Robinson served as a member of the Board of Education for the City of Whiteville; and

Whereas, Sankey Wright Robinson was a member of the Whiteville First Baptist Church and served actively as a deacon and Sunday School teacher for many years; and

Whereas, Sankey Wright Robinson served a term as Moderator of the Columbus Baptist Association and was an active member of the Whiteville First Baptist Church board of trustees at the time of his death; and

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Whereas, Sankey Wright Robinson was active in community affairs: a Thirty-second Degree Mason and a Shriner; and

Whereas, Sankey Wright Robinson was a long-time member of the Whiteville Lions Club, was a past president of the club, and served as a District Governor of Lions International; and

Whereas, Sankey Wright Robinson died May 30, 1986, leaving his wife, Elizabeth Wiseman Robinson, and his daughter, Beth Robinson, of the home; and

Whereas, Sankey Wright Robinson was a family man and a true Christian; and

Whereas, Sankey Wright Robinson was a member of the Commission on Criminal Justice Training and Standards, upon the nomination of the Speaker of the House of Representatives and election by the General Assembly, and at the time of his death he was in Raleigh addressing his fellow members of that Commission; and

Whereas, the General Assembly wishes to honor the memory of Sankey Wright Robinson and express its sympathy to his widow and his daughter;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina honors the memory of Sankey Wright Robinson and expresses its gratitude and appreciation for his life and service to his community and to North Carolina.

Sec. 2. The General Assembly expresses its deep sorrow to the family and friends of Sankey Wright Robinson for the loss of a beloved husband and father and a true friend.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Sankey Wright Robinson.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

S.R. 1287

RESOLUTION 52

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A JOINT RESOLUTION REPUDIATING THE CLAIM THAT THE WRIGHT BROTHERS DID NOT MAKE THE FIRST FLIGHT AND EXPRESSING NORTH CAROLINA'S PRIDE IN THE HISTORIC ACHIEVEMENTS OF THE WRIGHT BROTHERS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A JOINT RESOLUTION REPUDIATING THE CLAIM THAT THE WRIGHT BROTHERS DID NOT MAKE THE FIRST FLIGHT AND EXPRESSING NORTH

CAROLINA'S PRIDE IN THE HISTORIC ACHIEVEMENTS OF THE WRIGHT BROTHERS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

H.R. 2120

RESOLUTION 53

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GEORGE M. WOOD.

Whereas, George M. Wood was born in Camden County, April 30, 1926, the son of Freshwater Poole and Elsie Griffin Wood; and

Whereas, George M. Wood attended Elizabeth City High School and Stanton Military Academy and received a Bachelor of Science Degree in Agronomy from North Carolina State College; and

Whereas, George M. Wood gave freely of his time, energy, and talents to virtually all aspects of life in his community - he was a Mason, he was a Shriner, he was charter president of the Camden Lions Club, he was a contributor to the Albemarle Bank Food Pantry, and he was a Presbyterian deacon and elder; and

Whereas, George M. Wood was a farmer and a grain dealer and was selected "Young Farmer of the Year, 1960" by the Elizabeth City Jaycees for Camden, Currituck, and Pasquotank Counties; and

Whereas, George M. Wood was active in professional organizations as director of the National Grain and Feed Dealers Association, a member of the Carolinas-Virginia Grain and Feed Dealers Association, past president of the North Carolina Feed Manufacturers Association, and a member of Gamma Sigma Delta - "The Honor Society of Agriculture"; and

Whereas, George M. Wood was devoted to his alma mater, North Carolina State University, he was a great supporter of the Wolfpack, he was president and chairman of the board of the N.C. State Alumni Association, and he was chairman of the Board of Trustees of North Carolina State University; and

Whereas, George M. Wood, as a member of the advisory board of Chowan College and as a member of the Board of Governors of The University of North Carolina, took an active interest in institutions of higher learning throughout the State; and

Whereas, George M. Wood served with distinction in the House of Representatives in the 1963 and 1965 General Assemblies and in the Senate in the 1967, 1969, and 1971 General Assemblies; and

Whereas, George M. Wood, in his 1976 campaign for governor, conducted himself at all times with dignity, responsibility, and integrity; and

Whereas, George M. Wood will be remembered by all who knew him as a man devoted to his family, to his community, to his church, and to public service; and

Whereas, the General Assembly wishes to honor the memory of George M. Wood and to express its sympathy to his wife, Winifred Jones Wood, his children, Gail Wood, Joanne Wood Honeycutt, George Matthew Wood, Jr., David Lloyd Wood, and Robert Graham Wood, his sister, Jackie

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Wood Huddle, his brother, Freshwater Poole, Jr., his three grandchildren, and his associates and many friends across the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina honors the life and memory of George M. Wood and expresses the deep gratitude and appreciation of this State and its citizens, particularly the people of Northeastern North Carolina, for his life and service to North Carolina.

Sec. 2. The General Assembly expresses its deep sorrow to the family and friends of George M. Wood for the loss of a beloved husband, father, brother, and grandfather and a true friend.

Sec. 3. A certified copy of this resolution shall be transmitted by the Secretary of State to the family of George M. Wood.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

S.R. 1299

RESOLUTION 54

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT DISTRICT JUDGES SHALL BE APPOINTED WITHIN SIXTY DAYS AFTER NOMINATIONS ARE SUBMITTED.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT DISTRICT JUDGES SHALL BE APPOINTED WITHIN SIXTY DAYS AFTER NOMINATIONS ARE SUBMITTED."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.

H.R. 2132

RESOLUTION 55

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO AMEND CHAPTERS 53 AND 54B OF THE GENERAL STATUTES TO PROVIDE FOR SUPERVISORY ACQUISITION OF A SAVINGS AND LOAN ASSOCIATION BY A COMMERCIAL BANK CHARTERED PURSUANT TO THE PROVISIONS HEREOF.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO AMEND CHAPTERS 53 AND 54B OF THE GENERAL STATUTES TO PROVIDE FOR SUPERVISORY ACQUISITION OF A SAVINGS AND LOAN

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ASSOCIATION BY A COMMERCIAL BANK CHARTERED PURSUANT TO THE PROVISIONS HEREOF”.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.

S.R. 1297

RESOLUTION 56

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN P. EAST.

Whereas, John Porter East was born in Springfield, Illinois, on May 5, 1931, the son of Laurence and Virginia Porter East; and

Whereas, John Porter East attended Earlham College in Richmond, Indiana, where he distinguished himself as a football player and earned a Phi Beta Kappa key; and

Whereas, John Porter East contracted polio in 1955 while serving as a lieutenant in the United States Marines, and overcame his handicap to earn a law degree from the University of Illinois in 1959 and a Ph.D. degree in political science from the University of Florida in 1964; and

Whereas, John Porter East chose North Carolina as his home in 1964 and became an outstanding professor of political science at East Carolina University in Greenville, publishing articles in scholarly journals such as the *Political Science Review*, on whose editorial board he served, and in *The Wall Street Journal* and *Human Events*; and

Whereas, John Porter East described himself as “one of those rare creatures in academe, a conservative political science professor,” a man who had great confidence in the private sector and who revered traditional values; and

Whereas, John Porter East was a genuine scholar in the political arena, a man who appreciated the complexity of issues and bolstered his arguments with quotations from Plato and St. Thomas Aquinas; and

Whereas, John Porter East was a dedicated, active member of the State Republican Party from his earliest days in North Carolina, running creditable races under his party's banner against daunting odds for Congress in 1966 and Secretary of State in 1968, working on the Party's national platform in 1976, and serving as Republican National Committeeman; and

Whereas, John Porter East was elected to the United States Senate in 1980, and during almost six years in that body energetically espoused the causes in which he believed; and

Whereas, John Porter East had struggled in recent years against failing health to represent the people of North Carolina, and had decided only reluctantly not to seek a second term; and

Whereas, John Porter East was the husband of Priscilla Sherk East and the father of two daughters, Kathryn and Martha; and

Whereas, John Porter East was a member of Jarvis Memorial United Methodist Church in Greenville; and

Whereas, John Porter East is remembered by the people of North Carolina and America, some of whom have said:

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"Never flamboyant or interested in personal acclaim, he was a quiet and effective legislator, who never wavered in his belief in principle and in his determination to keep our country strong." - President Ronald Reagan.

"...I expect that he will be most remembered for his astonishing intellect. He was a very wise man. He understood his country as few people do in terms of its principles and its fundamentals. And he did not hesitate once defending those principles." - United States Senator Jesse A. Helms.

"He served the people he represented so valiantly and so well." - Governor James G. Martin.

"...A patriot and a leader for North Carolina and our country - a man of keen intellect and courageous stature." - Congressman James T. Broyhill.

"I think his strength was his personal appeal and the fact that he's very articulate. He had a certain amount of charisma that was hard to deal with." - Congressman Walter B. Jones (once a political opponent).

"...a very fine, honorable Christian gentleman...He was sincere in every action that he took." - Former Governor Dan K. Moore.

Whereas, North Carolinians mourn the death of this courageous public servant, who loved his State and Nation; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its appreciation for the life and public service of John Porter East, and honors his memory.

Sec. 2. The General Assembly of North Carolina extends its deepest sympathy to the family and friends of John Porter East for the loss of a beloved husband, father, and friend.

Sec. 3. This resolution shall become part of the public records of this Session of the General Assembly and a copy of it shall be certified by the Secretary of State and transmitted to the family of John Porter East.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.

S.R. 1296

RESOLUTION 57

A JOINT RESOLUTION REPUDIATING THE CLAIM THAT THE WRIGHT BROTHERS DID NOT MAKE THE FIRST FLIGHT AND EXPRESSING NORTH CAROLINA'S PRIDE IN THE HISTORIC ACHIEVEMENTS OF THE WRIGHT BROTHERS.

Whereas, it is a wind-swept stretch of sand at Kill Devil Hills, North Carolina. It is aviation's mecca. It is where the Wright Brothers made the first successful, sustained, controlled flight in a heavier than air, powered machine on December 17, 1903. It is ground over which every pilot, aviation enthusiast, North Carolinian and American should walk; and

Whereas, each year many people who visit say that they experience a special sense of spirit when they silently walk the distance of the Wright's first flight and contemplate the enthusiasm and dedication of the

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Brothers in overcoming the enormous difficulties of designing an airplane and learning to fly; and

Whereas, there are so few historical sites in aviation that have been preserved for following generations. It was not happenstance that the location of mankind's first successful powered flight remains open to the public. It was the direct result of a group of individuals who in 1926 joined together to form what is now the First Flight Society; and

Whereas, Orville and Wilbur Wright, after their historic achievement on the morning of December 17, 1903, continued their experiments and flights in the United States, England, France and Germany for all to see and witness; and

Whereas, they left a legacy of formulas, designs, calculations and innovative flight control systems that remain in use today; and

Whereas, North Carolina, is where aviation began. It is hallowed ground. The events and accomplishments that occurred have been recorded through eighty-three years of aviation history. It is where man's first sustained, controlled, powered flight happened at 10:35 a.m. on December 17, 1903; and

Whereas, North Carolina is proud that Captain William Tate, Kitty Hawk Postmaster, was instrumental in getting the Wrights to choose the Outer Banks for their experiments starting in September 1900. North Carolina is also proud that the historic lift off with Orville Wright at the controls was photographed by John T. Daniels. There were five eyewitnesses of the first flight: John T. Daniels, W.S. Dough and A.D. Etheridge of the Kill Devil Hills Life Saving Station, W.C. Brinkley of Manteo and John Moore of Nags Head; and

Whereas, the North Carolina General Assembly repudiates the contention of a group of Connecticut residents and that State's Legislature, that Gustave Whitehead, a resident of Bridgeport, Connecticut, was the first man to achieve sustained, controlled flight in a heavier than air machine on August 14, 1901; and

Whereas, there is no historic fact, documentation, record or research to support the claim that Gustave Whitehead flew before the Wright Brothers. The Whitehead claim has been discounted by leading aviation historians and the world's largest aviation museum - The Smithsonian Institute; and

Whereas, Bridgeport is famous for another great showman, promoter and circus man, P. T. Barnum, who said, "There's a sucker born every minute."; and

Whereas, the North Carolina General Assembly gives no credence to the false claim that Gustave Whitehead was the first man to achieve flight in a sustained, controlled, powered flight; and

Whereas, the issue has been settled many times by respected investigators, historians and aviation authorities. Dr. John B. Crane, Harvard University, investigated and made a report on Gustave Whitehead's flights published in N. A. A. Magazine, December 1936. He stated the following conclusions:

(1) The evidence that Gustave Whitehead made any genuine, sustained, horizontal flights is inconclusive;

Resolutions—1986

(2) The evidence that Gustave Whitehead made short momentum flights prior to 1904 is inconclusive; and

(3) The evidence that Gustave Whitehead made short momentum leap flights at different times between 1904 and 1908 is conclusive; and

Whereas, we request that the Smithsonian Institute make available the documented information gathered in those investigations; and

Whereas, the people of the State of North Carolina take great pride in the achievements of Wilbur and Orville Wright, and we would like to call the attention of all and sundry to the following points:

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. (a) The Wright Brothers made the world's first successful powered, sustained and controlled flights in an airplane at Kill Devil Hill near Kitty Hawk, North Carolina, on the morning of December 17, 1903.

(b) The Wright Brothers demonstrated unique genius as well as extraordinary courage and perseverance in the development of the world's first practical airplane. In so doing, they inspired the birth of world aviation.

(c) The Wright Brothers in these achievements have been affirmed by the President and the Congress of the United States, federal courts, scholars, museums and bright school children everywhere.

Sec. 2. George Bernard Shaw once remarked that society seems to move through three phases in considering a new invention. At first we refuse to admit that the thing has been accomplished. Next we decide that it was not so important after all. Finally, we seem compelled to prove that someone else did it first.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

H.R. 2135

RESOLUTION 58

A JOINT RESOLUTION AUTHORIZING THE 1985 GENERAL ASSEMBLY, 1986 SESSION, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF SALUDA TO DISPOSE OF TWO FIRE TRUCKS AT PRIVATE NEGOTIATION AND SALE TO SALUDA VOLUNTEER FIRE AND RESCUE, INC.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1985 General Assembly, Regular Session 1986, may consider "A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF SALUDA TO DISPOSE OF TWO FIRE TRUCKS AT PRIVATE NEGOTIATION AND SALE TO SALUDA VOLUNTEER FIRE AND RESCUE, INC."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.

Resolutions—1986

H.R. 2139

RESOLUTION 59

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives constituting the General Assembly of 1985 do adjourn sine die, on Wednesday, July 16, 1986, at 10:30 a.m.

Sec. 2. This resolution is effective upon ratification.

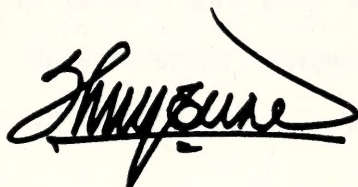
In the General Assembly read three times and ratified, this the 16th day of July, 1986.

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, JULY 16, 1986

I, THAD EURE, Secretary of State of North Carolina, hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

A handwritten signature in black ink, appearing to read 'Thad Eure', with a large, sweeping flourish extending from the end of the name.

Secretary of State

APPENDIX

EXECUTIVE ORDERS OF GOVERNOR JAMES G. MARTIN

Title	Number
TO IMPLEMENT CERTAIN ECONOMIES IN NORTH CAROLINA STATE GOVERNMENT TO RESPOND TO FEDERAL LEGISLATION REQUIRING A FEDERAL BALANCED BUDGET	22
GOVERNOR'S COUNSEL ON ALCOHOL AND DRUG ABUSE AMONG CHILDREN AND YOUTH	23
GOVERNOR'S PROGRAM TO STRENGTHEN HISTORICALLY BLACK COLLEGES	24
REGIONAL POLICY FOR NORTH CAROLINA	25

APPENDIX

EXECUTIVE ORDER OF PRESIDENT JAMES O. EASTON

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Page 2

TO IMPLEMENT CERTAIN PROVISIONS OF THE NORTH AMERICAN FREE
TRADE AGREEMENT TO REDUCE TO A MINIMUM THE BARRIERS TO
FREE TRADE BETWEEN THE UNITED STATES AND CANADA
AND TO PROMOTE THE ECONOMIC DEVELOPMENT OF THE
NORTH AMERICAN REGION TO STRENGTHEN ECONOMICALLY
AND POLITICALLY THE NORTH AMERICAN REGION
AND TO PROMOTE THE ECONOMIC DEVELOPMENT OF THE
NORTH AMERICAN REGION TO STRENGTHEN ECONOMICALLY
AND POLITICALLY THE NORTH AMERICAN REGION

State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 22

TO IMPLEMENT CERTAIN ECONOMIES IN NORTH CAROLINA
STATE GOVERNMENT TO RESPOND TO FEDERAL LEGISLATION REQUIRING
A FEDERAL BALANCED BUDGET

The United States Congress has enacted the Gramm-Rudman-Hollings balanced budget amendment to the federal debt ceiling limit bill (RL-99-177) requiring the federal government to reach a balanced budget by the fiscal year 1991. Implementation of said Gramm-Rudman-Hollings amendment may reduce the federal budget authority for programs in North Carolina by an amount exceeding \$200 million during fiscal years 1986 and 1987. The Governor, as Director of the Budget, has the responsibility to maintain needed services within a balanced state budget during each fiscal period.

NOW, THEREFORE, by authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1: Effective January 8, 1986, and until further notice, vacant positions in the Executive Branch of State Government, except those for which prior commitments have been made, may not be filled without prior written approval of the Office of State Budget and Management. This Order shall not apply to the employees of the 141 North Carolina local public school units and the 58 community colleges and technical institutions, nor shall it apply to those employees exempt from the State Personnel Act within the 17 educational institutions of The University of North Carolina.

Section 2: This Order shall become effective on January 8, 1986 and shall remain in effect until rescinded by Executive Order.

This the 8th day of January, 1986.

James G. Martin
James G. Martin
Governor

ATTEST:

Thad Eure

Thad Eure, Secretary of State
State of North Carolina



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 23

GOVERNOR'S COUNCIL ON ALCOHOL AND DRUG ABUSE AMONG CHILDREN AND YOUTH

By the authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1. ESTABLISHMENT

- (a) There is established a Governor's Council on Alcohol and Drug Abuse Among Children and Youth.
- (b) The Council shall consist of not more than twenty (20) persons who shall be appointed by the Governor. The Governor shall designate the chairman of the Council. All Council members shall serve at the pleasure of the Governor.
- (c) The persons appointed shall be citizens who have demonstrated interest, involvement or expertise in children and youth issues related to prevention, intervention and treatment of alcohol and drug abuse.

Section 2. FUNCTIONS

- (a) The Council is authorized to meet regularly at the call of the Chairman, the Governor, or the Secretary of Human Resources.
- (b) In fulfilling its undertaking, the Council shall have the following duties relating to alcohol and drug abuse among children and youth:
 - (1) Review the General Statutes of North Carolina applicable to substance abuse, including criminal and service delivery legislation and make recommendations concerning needed changes;

- (2) Review and recommend mechanisms for the coordination of state and local resources for addressing identified needs;
- (3) Conduct public hearings and advise the Governor and other appropriate state government departments and agency heads of the result and recommendations of the Council;
- (4) Encourage local areas to identify an existing board, council or commission to mobilize resources to address substance abuse problems among this population;
- (5) Encourage local boards, councils or commissions to develop an implementation plan to meet identified needs of this target population;
- (6) Assist local boards, councils or commissions in identifying model prevention, intervention and treatment efforts;
- (7) Encourage program activities that increase public awareness of youth substance abuse and strategies to decrease the problem, and
- (8) Other such duties as assigned by the Governor or the Secretary of Human Resources.

Section 3. ADMINISTRATION

- (a) The heads of the State departments and agencies shall, to the extent permitted by law, provide the Council information as may be required by the Council in carrying out the purposes of this Order.
- (b) The Department of Human Resources shall provide staff and support services as directed by the Secretary of Human Resources.
- (c) Members of the Council shall serve without compensation, but may receive reimbursement contingent on the availability of funds for travel and subsistence expenses in accordance with state guidelines and procedures.
- (d) The Council shall be funded by the Department of Human Resources and contributions received from the private sector.

Section 4. REPORTS

- (a) The Council will present an annual report to the Governor and the Secretary of Human Resources.

- (b) Reports of recommendations may be submitted to the Governor and Secretary of Human Resources as deemed appropriate by the Chairman.

Section 5. IMPLEMENTATION

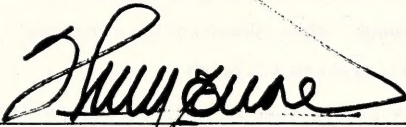
The Office of the Secretary of Human Resources will review reports and recommendations and take appropriate action.

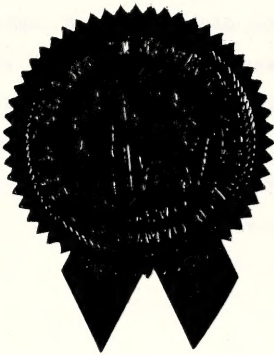
Section 6. PRIOR ORDERS

All prior Executive Orders or portions of prior Executive Orders inconsistent herewith are hereby repealed.

This Order is effective the 29th day of January, 1986.


James G. Martin
Governor


Thad Eure, Secretary of State
State of North Carolina



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 24

GOVERNOR'S PROGRAM TO STRENGTHEN HISTORICALLY BLACK COLLEGES

By the authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1. ESTABLISHMENT

- (a) There is established the Governor's Program to Strengthen Historically Black Colleges.
- (b) The program to Strengthen Historically Black Colleges shall be administered by the Senior Education Advisor.
- (c) The purpose of the program to Strengthen Historically Black Colleges is to advance the development of human potential in our State, to strengthen the capacity of Historically Black Colleges and Universities, to provide quality education, and to further establish the role and value of Historically Black Colleges and Universities to our State.

Section 2. FUNCTIONS

- (a) The program shall seek to achieve a significant increase in the participation by Historically Black Colleges and Universities in State sponsored programs.
- (b) The program shall be administered to identify, reduce, and eliminate barriers which may have inadvertently resulted in reduced participation in, and reduced benefits from State sponsored programs by Historically Black Colleges and Universities.
- (c) The program shall seek to involve business and industry in strengthening Historically Black Colleges.

Section 3. ADMINISTRATION

- (a) Each Cabinet Department and Executive agency, defined in G. S. 143B-6, excepting the Department of Community Colleges, hereinafter referred to as Designated State Agencies, shall establish an annual plan to increase the ability of Historically Black Colleges and Universities to participate in State sponsored programs. These plans shall have measurable objectives of proposed agency actions and shall be submitted at such time and in such form as the Governor shall designate.
- (b) In consultation with the Designated State Agencies, the Senior Education Advisor shall undertake a review of these plans and develop an integrated Annual State Plan for assistance to Historically Black Colleges and Universities for consideration by the Governor and the Cabinet.

- (c) The Senior Education Advisor shall provide each President and/or Chancellor of a Historically Black College or University in North Carolina and the President of the University of North Carolina an opportunity to comment on the proposed Annual State Plan prior to its consideration by the Governor.
- (d) Each Designated State Agency shall submit to the Senior Education Advisor a mid-fiscal year progress report of its achievement of the objectives set forth in its plan and such agency shall at the end of the fiscal year submit to the Senior Education Advisor an annual performance report which shall specify agency performance of its measurable objectives.
- (e) The Secretary of Commerce, to the extent permitted by law, shall stimulate initiatives by private sector businesses and institutions to strengthen Historically Black Colleges and Universities, including efforts to further improve the management, financial structure and research of such Historically Black Colleges and Universities.

Section 4. REPORTS

- (a) The Senior Education Advisor after compliance with the requirements of this order, shall submit to the Governor and the Cabinet an Annual State Plan not later than June 30 of each year this order is in effect.
- (b) Senior Education Advisor shall submit to the Governor an annual state performance report on each Designated State

Agency's compliance with the Annual State Plan. This report will include the performance appraisals of each Designated State Agency and will also include recommendations for improvements.

Section 5. IMPLEMENTATION

- (a) Prior to the development of the first Annual State Plan, the Senior Education Advisor shall supervise a special review by every Designated State Agency of its programs to determine the extent to which Historically Black Colleges and Universities are given an opportunity to participate in State Sponsored Programs. The Designated State Agencies will examine unintended regulatory barriers, determine the adequacy of the announcement of programmatic opportunities of interest to these colleges, and identify ways of increasing equity and advantage.
- (b) The special review shall take place not later than April 30, 1986.
- (c) Designated State Agencies shall submit their annual plans required by this order to the Senior Education Advisor not later than May 15, 1986.
- (d) The first Annual State Plan for assistance to Historically Black Colleges and Universities shall be delivered to the Governor and the Governor's Cabinet by not later than June 30, 1986.

Section 6. PRIOR ORDERS

All prior Executive Orders or portions of prior Executive Orders inconsistent herewith are hereby repealed.

This Order is effective the 13th day of February, 1986.

James S. Martin

James G. Martin
Governor

Thad Eure

Thad Eure, Secretary of State
State of North Carolina



State of North Carolina



JAMES G. MARTIN
GOVERNOR

EXECUTIVE ORDER NUMBER 25

REGIONAL POLICY FOR NORTH CAROLINA

In 1970, this State delineated boundaries for multi-county planning and development regions and in 1971 a Lead Regional Organization was designated for each region to establish goals and objectives, and serve as the regional agent in dealing with state and federal agencies. Thereafter, state agencies were instructed to utilize the Lead Regional Organization for planning, implementing, and coordinating programs which impact local governments. The concepts of multi-county planning regions and the Lead Regional Organization policy have been very effective in fostering intergovernmental coordination and cooperation and this Administration is committed to close cooperation with local governments and their agencies. Therefore, by the authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1. ORGANIZATION

- (a) A single Lead Regional Organization shall continue to exist in each of the eighteen multi-county planning development regions or such larger or smaller number of regions as may be hereinafter delineated by the Department of Administration.
- (b) The governing board of each Lead Regional Organization shall determine the organization's membership composition, but such Lead Regional Organizations are urged to limit policy board representation to elected officials of the member local governments.

Section 2. FUNCTIONS

- (a) Lead Regional Organizations, whether Councils of Governments or Economic Development Districts shall have

the same powers and duties specified for Councils of Governments in the General Statutes of North Carolina.

Section 3. ADMINISTRATION

- (a) In dividing the State for administrative and/or service delivery purposes, State agencies shall make subdivisions coterminous with the Lead Regional Organization boundary lines, or with combinations of such, unless it can be demonstrated that strict conformance would result in inefficiencies, or that the proposed subdivision bears no relationship to regional plans or activities.
- (b) State agencies desiring to eliminate, re-direct, or begin programs which impact local governments through Lead Regional Organizations are hereby directed to submit any proposed change or modification to the Local Government Advocacy Council for an advisory opinion prior to taking action. New programs involving service delivery through the Lead Regional Organizations must have the approval of local governments affected .
- (c) State financial support to Lead Regional Organizations should be limited to grants to carry out specific tasks which are imposed by State government, or tasks which involve a coordinated state-wide activity which will be beneficial to both State and local governments. State funds, if provided, shall not be utilized for general administrative support, nor shall they be utilized to supplant local funds.
- (d) The determination of personnel procedures for Lead Regional Organizations shall be left to the discretion of local governments, and no State agency shall impose its personnel procedures on the Lead Regional Organizations. Nothing in this section shall preclude the establishment of reasonable minimum education and experience standards for positions funded by a State agency, provided that such standards shall be no more stringent than those in use by State or Federal agencies for comparable positions. The Lead Regional Organizations shall have complete autonomy in filling such positions from among applicants meeting those reasonable minimum standards.

Section 4. MODIFICATION OF REGIONAL BOUNDARIES

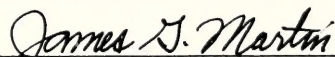
- (a) The Secretary of the Department of Administration is hereby charged with revising and implementing, if necessary, the existing guidelines dealing with the changing of regional boundary lines, in accordance with the following:

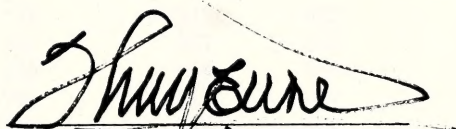
- (b) Boundary changes shall not be considered unless a petition for change is received from one or more county boards of commissioners or from the governing bodies of one or more municipalities whose combined populations represent at least 50% of the county population. No boundary change shall be made until after notice of such proposed change is given, and sufficient opportunity for public comment is provided.
- (c) Any request for boundary change shall be acted upon within ninety (90) days of the receipt of a valid petition.
- (d) Approved boundary changes shall be effective on July 1st of the following year, and must be announced at least ninety days prior thereto.
- (e) A request for change which is not approved by the State shall not be reconsidered for a minimum period of three years from the date of disapproval.

Section 5. PRIOR ORDERS

All prior executive orders or portions of prior executive orders inconsistent herewith are hereby repealed.

This order is effective this the 21st day of February, 1986.


James G. Martin
Governor


Thad Eure, Secretary of State
State of North Carolina



NUMERICAL INDEX TO SENATE AND HOUSE BILLS

1985 GENERAL ASSEMBLY REGULAR SESSION 1986

Ratified Number refers to the Session Law Chapter number except when preceded by an R, in which case it refers to the Resolution number.

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73	972	892	986	941	875
180	927	893	957	942	951
249	966	896	929	944	876
293	1017	897	980	948	969
303	949	901	985	949	923
438	841	903	983	950	970
485	842	904	853	952	924
488	973	905	854	953	R51
595	998	906	1005	992	R46
613	967	908	871	994	974
626	856	909	959	1024	865
634	843	910	921	1180	R35
642	797	911	812	1273	925
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889	811	939	993	1306	1023

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<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
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170	932	1452	826	1561	847
266	989	1458	1003	1562	936
286	1002	1459	934	1573	859
306	933	1460	935	1575	836
377	877	1461	815	1576	848
491	866	1462	R37	1578	880
530	975	1465	827	1579	849
578	990	1467	822	1580	937
606	850	1469	828	1581	837
611	800	1470	829	1582	838
647	798	1471	816	1584	881
648	976	1472	817	1585	882
672	857	1475	902	1587	883
759	952	1476	879	1590	839
761	878	1477	903	1593	884
810	1010	1481	830	1594	939
829	999	1482	1021	1597	860
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939	801	1487	796	1600	907
952	961	1488	804	1602	886
953	794	1489	805	1605	R39
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1645	941	1697	945	2109	956
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1649	962	1753	955	2115	R49
1653	942	1811	799	2116	1011
1655	869	1845	R44	2118	R47
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1661	893	1970	1012	2120	R53
1665	1009	2019	965	2127	1004
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1675	916	2080	823	2132	R55
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1677	943	2084	995	2135	R58
1678	894	2086	918	2136	1024
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1690	978	2095	862	2138	994
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REGULAR SESSION 1986

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